File Microcopies of Records in the National Archives: No. 133

Roll 73

DESPATCHES FROM UNITED STATES MINISTERS TO JAPAN

Volume 73

August 3, 1899 - June 30, 1900

THE NATIONAL ARCHIVES

Washington: 1949

INTRODUCTION

The 83 volumes reproduced in this microcopy contain communications, with related enclosures, that were received by the Secretary of State from diplomatic representatives of the United States accredited to Japan in the period 1855-1906. The series, which may be referred to as "Diplomatic Despatches, Japan," is part of a larger body of records in the National Archives designated as Record Group 59, General Records of the Department of State. The documents have been reproduced in the order, for the most part chronological, in which they appear in the volumes. Their contents are registered on Roll 1.

The volumes, each of which has been microcopied on a separate roll (except volumes 81 and 81 Annex which have been placed on one roll), are distributed as follows:

Roll	Volume	Inclusive Dates
1	1	March 17, 1855 - June 29, 1858
2	2	July 1, 1858 - December 31, 1859
3	3	January 2, 1860 - May 6, 1862
4	4	February 7, 1862 - December 31, 1863
5	5	January 4, 1864 - December 31, 1864
6	6	January 2, 1865 - December 31, 1865
7	7	January 3, 1866 - December 31, 1866
8	8	January 2, 1867 - December 31, 1867
9	9	January 2, 1868 - April 8, 1868
10	10	April 10, 1868 - August 26, 1868
11	11	September 1, 1868 - April 1, 1869
12	12	April 1, 1869 - March 10, 1870
13	13	June 25, 1869 - April 21, 1870
14	14	May 2, 1870 - September 20, 1870
15	15	September 20, 1870
16	16	September 22, 1870 - December 31, 1870
17	17	January 1, 1871 - April 26, 1871
18	18	April 28, 1871 - August 21, 1871
19	19	August 27, 1871 - December 22, 1871
20	20	December 23, 1871 - September 27, 1872
21	21	September 29, 1872 - January 12, 1873
22	22	January 18, 1873 - April 12, 1873
23	23	April 16, 1873 - May 26, 1873
24	24	May 27, 1873 - July 5, 1873
25	25	July 6, 1873 - September 2, 1873
26	26	September 13, 1873 - December 18, 1873

Roll	Volume	Inclusive Dates
27	27	December 19, 1873 - March 20, 1874
28	28	March 21, 1874 - October 8, 1874
29	29	October 9, 1874 - March 20, 1875
30	30	March 23, 1875 - October 5, 1875
31	31	October 6, 1875 - February 5, 1876
32	32	February 8, 1876 - August 22, 1876
33	33	September 4, 1876 - March 6, 1877
34	34	March 7, 1877 - September 19, 1877
35	35	September 24, 1877 - December 31, 1877
36	36	January 4, 1878 - April 17, 1878
37	37	April 18, 1878 - July 23, 1878
38	38	July 24, 1878 - December 27, 1878
39	39	January 4, 1879 - July 23, 1879
40	40	July 24, 1879 - October 29, 1879
41	41	November 6, 1879 - March 24, 1880
42	42	April 9, 1880 - July 26, 1880
43	43	August 3, 1880 - January 22, 1881
44	44	February 1, 1881 - June 30, 1881
45	45	July 4, 1881 - November 23, 1881
46	46	December 3, 1881 - May 23, 1882
47	47	May 30, 1882 - November 30, 1882
48	48	December 4, 1882 - July 31, 1883
49	49	August 3, 1883 - December 31, 1883
50	50	January 7, 1884 - June 30, 1884
51	51	July 1, 1884 - December 29, 1884
52	52	January 2, 1885 - July 30, 1885
53	53	August 1, 1885 - December 31, 1885
54	54	January 6, 1886 - July 9, 1886
55	55	July 10, 1886 - December 29, 1886
56	56	January 1, 1887 - May 23, 1887
57	57	June 1, 1887 - December 31, 1887
58	58	January 6, 1888 - October 26, 1888
59	59	November 5, 1888 - July 31, 1889
60	60	August 1, 1889 - January 31, 1890
61	61	February 5, 1890 - June 23, 1890
62	62	July 7, 1890 - December 24, 1890
63	63	January 8, 1891 - December 28, 1891
64	64	January 5, 1892 - December 28, 1892
65	65	January 4, 1893 - August 28, 1893
66	66	September 2, 1893 - June 30, 1894
67	67	July 3, 1894 - November 29, 1894
68	68	December 7, 1894 - July 31, 1895
69	69	August 9, 1895 - September 22, 1896
70	70	October 1, 1896 - November 30, 1897
71	71	December 6, 1897 - August 29, 1898
72	72	September 3, 1898 - July 29; 1899
73	73	August 3, 1899 - June 30, 1900
74	74	July 1, 1900 - January 31, 1901
75	75	February 5, 1901 - December 31, 1901

Roll	Volume	Inclusive Dates
76	76	January 3, 1902 - August 30, 1902
77	77	September 1, 1902 - November 30, 1903
78	78	December 1, 1903 - June 30, 1904
79	79	July 1, 1904 - February 25, 1905
80	80	March 4, 1905 - August 31, 1905
81	81	September 5, 1905 - February 28, 1906
	81 Annex	November 24, 1905
82	82	March 1, 1906 - August 9, 1906

Most of the communications are original despatches, usually accompanied by enclosures. Some of the enclosures are original notes to the American representatives from officials of the Japanese foreign ministry. Other enclosures were written by American consuls in Japan and, occasionally, by private citizens of the United States. A considerable number of enclosures are copies of communications sent by American representatives to Japanese officials. Pamphlets, newspaper clippings, and other printed matter are sometimes enclosed.

Apart from numbered despatches and enclosures, these volumes contain many unnumbered letters, some of which are marked "Private" or "Confidential." Unnumbered or private letters, more informal than despatches, may report official matters requiring secrecy or not fully covered in the despatches, or may convey personal news, acknowledgments of appointment or recall, announcements of arrival or departure, and statements of official expenses. The volumes also contain telegrams and cables, which were not numbered.

The register to these despatches reproduced on Roll 1 of this microcopy consists of selected pages from a number of State Department registers, which, taken as a unit, comprise a register of these despatches from 1855 to 1906. These register volumes, in their entirety, record diplomatic despatches received by the Department of State from American legations throughout the world from 1789 to 1906. For the period beginning in 1870 the communications reproduced in this microcopy are registered, with those from representatives in other countries, in volumes that have been reproduced as the first 10 rolls of File Microcopy 17, State Department Registers of Correspondence.

In Record Group 59, General Records of the Department of State, in the National Archives there are several series of volumes containing additional material on the relations between Japan and the United States. Complementary to the diplomatic despatches are instructions from the Secretary of State to the diplomatic representatives of the United States accredited to Japan, 1855-1906, which have been reproduced on Rolls 104-108 of File Microcopy 77, Diplomatic Instructions of the Department of State. Additional records pertaining to the relations between the United States and Japan during the period covered by the present microcopy include the

communications ("Notes") exchanged between the Secretary of State and the diplomatic representatives of Japan in Washington. Related to these records, though less directly, are despatches to the Department of State from United States consuls at Nagasaki, 1860-1906 (File Microcopy 131), Kanagawa, 1861-1897 (File Microcopy 135), Yokohama, 1897-1906 (File Microcopy 136), and at Osaka, Hiogo, and Kobe, 1868-1906. All these series were discontinued on August 14, 1906, when the Department of State adopted the practice of filing incoming and outgoing correspondence, not of a routine nature, by subject in a single numerical case file. Correspondence on routine matters was placed in a "minor file." In 1910 this system was abandoned and the Department's present decimal system of subject classification adopted. The numerical case file, the "minor file," and the decimal file are in the National Archives through 1929.

Also in the National Archives, in Record Group 84, Records of the Foreign Service Posts of the Department of State, there are records kept by American diplomatic and consular posts. Although these post records duplicate to some extent the records that were kept in Washington, they supplement them importantly by providing detailed information about many transactions that were only summarized or were not reported on at all in the documents that were transmitted to Washington. File microcopies of these post records have not been made.

In this microcopy the ends of lines next to the binding have not always been reproduced by the camera; a reading of any lines thus affected will be provided upon request by the National Archives.

ROLL CONTENTS

The volume microcopied on this roll has the following backstrip title: "73 / Japan / Alfred E. Buck / August 1, 1899 / June 30, 1900 / 339 - 444 / Department / of State." It contains communications, with related enclosures, to the Secretary of State from Alfred E. Buck, Envoy Extraordinary and Minister Plenipotentiary accredited to the Government of Japan, April 13, 1897.

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226

119166
1048
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Bureau of Indexes and Archives.

_____, 190 .

JAPAN

Alfred E. Buck.

Aug. 1, 1899 – July 31, 1900

339 — 461

AUG 28 1899

BUREAU.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 339. August 3, 1899.

INDEX BUREAU REC'D. 28 AUG '99 DEPT. OF STATE

2D ASSISTANT SECRETARY. To war Dept to complete the record. Ack & file. AUG 28 1899

Did Aug. 39/99 C

Mr. Buck

to the Secretary of State.

Subject:

Permission to land army horses in Japan.

DIPLOMATIC

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 339. August 3, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to confirm your cypher telegram received the 28th ultimo, as follows, "Washington, July 25th. Buck, "Minister, Tokyo. If permission is necessary to land and pas- "ture at Nagasaki or at Yokohama United States Army horses "in transit to Manila, request it. Hay".

In response to my request I have received a note from the Minister for Foreign Affairs to the effect that the Japanese Government have no objection to the said horses' being landed and pastured as desired.

I have the honor to be,

Sir,

Your obedient servant,

J. E. Buck

File

DIPLOMATIC,
AUG 28 1899
UNITED STATES LEGATION,
TOKYO, JAPAN.
BUREAU.

No. 340. August 3, 1899.

INDEX BUREAU
REC'D.
28 AUG '99
DEPT. OF STATE

Mr. Buck

to the Secretary of State.

Subject:

Acknowledging Instruction No. 233, July 8th, in re pro=
vision for a Vice Consul at Kobé.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 340. August 3, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to acknowledge the receipt of your Instruction No.233, dated the 8th ultimo, enclosing copy of an instruction to our Consul at Osaka and Hiogo (Mr.Cridler to Mr.Lyon, No.26 of the 3rd ultimo) in which is set forth the arrangement that the Department will sanction to provide for a Vice Consul at Kobé.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

72

DIPLOMATIC,
UNITED STATES LEGATION,
TOKYO, JAPAN.
AUG 28 1899
BUREAU.

No. 341. August 4, 1899.

INDEX BUREAU
REC'D.
28 AUG 99
DEPT. OF STATE

Mr. Buck

to the Secretary of State.

Subject:

Confirming telegrams in re landing army horses—Mr. Adee to Mr. Buck, dated August 2nd, and Mr. Buck to the Secretary of State dated August 3rd.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 341. August 4, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to confirm your telegraphic instruction received yesterday, reading as follows:- "Washington, August 2, "1899. Buck, Minister, Tokyo. Press request telegraphed "twenty-fifth. Very necessary to rest horses while vessels "coal. Four ship loads will go via Nagasaki. Adee, Acting".

I have the honor to confirm, also, my telegraphic reply dated yesterday, reading, decyphered, as follows:- "Secstate, "Washington. On my request Japanese Government has given "consent to land horses . Buck".

I have the honor to be,

Sir,

Your obedient servant,



Wm. Smith

TELEGRAM RECEIVED IN CIPHER. Confirm

DIPLOMATIC, AUG 9 1899 BUREAU.

From United States Legation,
Tokio, Japan, August 6, 1899.
(Received 1.40 p.m.)

Secretary State,

Washington.

To Navy Dept Aug 7/99

3rd. ASST. SECRETARY AUG 9 1899

Confirm Aug 9/6

I am informed by Japanese Minister for Foreign Affairs that if Navy Department at once surrenders lease to Yokohama lots they will be transferred to Pacific Mail Company. A despatch from the Consul General of the United States at Yokohama last June number 141 will give you information about lots. Navy Department assenting authority is requested by telegraph to me to act. Telegrams charged Company.

BUCK.

hered by Keller

Aug 6, 189, 2 P.M.

DIPLOMATIC,
SEP 30 1899
BUREAU

No. 342. UNITED STATES LEGATION, TOKYO, JAPAN. August 11, 1899.

INDEX BUREAU
REC'D.
7 SEP '99
DEPT. OF STATE

2D ASSISTANT SECRETARY,
Mr. Bacon can print.
Ask sending copies of Act. Sheets
SEP 7 1899

* Mailed six copies to Minister Buck Oct. 2/99

PRINTED IN ADVANCE SHEETS NO. 542-546 in part

Mr. Buck

to the Secretary of State.

Subject:

Enclosing translations of some regulations of interest to foreigners.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No.342. August 11, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to enclose herewith, as of some interest to foreigners, translations of the following recently issued regulations etc:- Supplementary Regulations Regarding Boundaries of Open Ports, Imperial Ordinance No.360, August 2nd; 1. Regulations Concerning the Treatment of Foreigners in Formosa, Ordinance No.71, July 16th, issued by the Governor General of Formosa's Office; 2. Private School Regulations, Imperial Ordinance No.359, August 2nd; and an Instruction by the Minister for Education, supplementary to the last. 3. 4.

I have the honor to be,

Sir,

Your obedient servant,

Enclosures, as above.

Enclosure No.1 with Mr.Buck's No.342 dated August 11th, 1899.

(Copy)

Imperial Ordinance No.360, August 2nd, 1899.

Article I of the regulations of the open ports the following paragraphs are to be added:-

The boundaries of Shimizu port are inside of the line drawn straight north from Masaki.

Those of Takatoyo, inside of a line drawn straight east from Fudo village .

Those of Yokkaichi, inside of the arc of a circle with a radius of 2½ nautical miles , drawn from the lighthouse as a centre.

Those of Shimonoseki, inside of a line drawn from Beshi-machi-no-hana on Hiko Island to the southeast of Ganryu Island , and on north northeast, and a line drawn northast from Amanra-no-hana on Hiko Island.

Those of Moji within the area limited by a line drawn from four chains northeast of Shiroki cape to Moji cape, and a line drawn straight southward from thesame point .

Those of Hakata, inside of a line drawn from the north end of Nokori Island to Mitsukiri, and a line drawn from Odo-hana to the south end of Nokori Island.

Those of Karatsu, between the two lines drawn straight east and west from the north end of Taka Island.

Those of Kuchinotsu, within the area limited by a line drawn straight south from Miyazaki-hana , and a line drawn straight east from Shirama cape.

Those of Misumi, within four lines , one drawn from Seto-no-hana to Kompira-hana on Oyano Island; another drawn from Kiwazaki-no-hana to Nozaki on Tobashiri Island; another from Usagi-hana of the same island to Rokushiro-hana on Chisuka Island, and another from there to Togasaki on Oyano Island

Those

Those of Izuhara, inside of a line drawn from Torazaki to Yarazaki or Neshaka-hana.

Those of Sasuna, inside of a line drawn from Tateba cape to Toroku cape.

Those of Shishimi, inside of a line drawn from Nagasaki Island to Too cape.

Those of Nawa, inside of a line drawn from Sakihara cape to the north end of Hinose, and a line drawn from the mouth of Arigawa to the north end of Hinose .

Those of Hamada, inside of a line drawn from Kurosaki to the west end of Uma Island , and a line drawn from the north end of Uma Island (Senjojiki hana) to Abumi cape.

Those of Sakai, inside of the arc of a circle having a radius of 1.5 nautical mile with the lighthouse as its centre, and west of a line drawn straight north from the west end of Satonoe.

Those of Miyazu, inside of a line drawn from Katashima-hana to Hiki cape.

Those of Suruga, inside of a line drawn from Akasaki to Hiruko cape.

Those of Nanao, (south bay), west of a line drawn south-east from Matsugasaki on Noto Island and east of the straight of Ryobugasaki.

Those of Fushiki, within the arc of a circle with a radius of 1½ nautical miles with the lighthouse as its centre.

Those of Odaru, inside of a line drawn from Hiraiso cape to Kayashiba cape.

Those of Kushiro, north of a line drawn two nautical miles straight west from the lighthouse, and east of a line drawn straight north from the west end of the aforesaid line.

Those of Muroran, inside of a line drawn from Yenrumu cape to Hotoeishi cape through Daikuku Island.

Enclosure No.2 with Mr.Buck's No342 dated August 11th, 1899.

(Copy)

Ordinance No.71, issued by the Governor General of Formosa's Office, July 16th, 1899.

Regulations Concerning the Treatment of Foreigners in Formosa.

Art.1. One who has a foreigner lodging at his house shall notify the following points to the police office concerned within twenty-four hours ; (The name, status, and name of domicile in foreign country shall be added in the original language):-

Ist. Full name.

2nd. Nationality.

3rd. Status and profession.

4th. Age.

5th. Domicile or residence; when he has neither, his residence in a foreign country.

6th. Where he came from.

7th. Date (including hour)of his arrival.

When the foreigner notified according to the foregoing paragraph has left the house, the landlord shall within twenty-four hours notify the police office concerned, the date (including hour) of removal, and the place to which he has removed or travelled. One, however, answering to the provision of Article IV shall be treated according to that Article.

The hours allowed for the notification in the Ist and 2nd paragraphs may be shortened by regulations of the prefectural government in case of those who have foreigners lodging with them on account of their being hotel keepers or of their having business of that kind. The notification mentioned in the Ist and 2nd paragraphs may be made to the branch police

office

office or the police official on his rounds, except in cases specially provided for in the regulations of the prefectural government.

Art.II. When a foreigner is requested by the proprietor or manager of the house where he is lodging, he shall inform the facts which ought to be notified according to the foregoing Art. in relation to himself or his companions, or shall fill out the papers which the proprietor or manager may hand him.

ArtIII. The foreigner who has a house, or one who, though not having a house, resides in the same Gai, sho, or sha, with the purpose of living there for more than ninety days shall within ten days from the date of beginning residence notify the police office concerned, of his or his family's domicile or residence, date of beginning residence, former residence, his residence in foreign country, the facts mentioned in Nos.I-IV of the first paragraph of Art.I and the relationships of his family with him.

The foreigner who though not answering to the foregoing paragraph has lived in the same gai, sho, or sha, for more than ninety days shall send notice according to the foregoing paragraph within ten days after the ninety days.

When the foreigner does not retain a house, the landlord of his lodging place, and when the foreigner retains a house the owner or agent of the house, shall sign collectively with him in the notification mentioned in the Ist and 2nd paragraphs.

A denationalized Japanese subject continuing to reside in the same place need not send notification according to the present Art.

Art.IV. The police office shall prepare a record of the registration of foreigners and register in it the facts notified according to the Ist and 2nd para- ted

fied according to the Ist and 2nd paragraphs of Art.III, Art. V and Art.VI. When though not notified, the facts required in the registration are known, the same process shall be gone through.

Art.V. When the foreigner registered in the record of registration of foreigners moves, one of the following persons shall within ten days notify the police office concerned the date of removal and the place to which he has removed. When one who moves notifies in person, the notification shall be made before the removal.

I. When a foreigner who is in lodging moves, the person who has had the foreigner lodge at his house.

2. When the family of a foreigner who retains a house has moved, the foreigner himself.

3. When a foreigner who retains a house moves, and yet his family remains at the house, the adult who should be the head of the house; if there is no such, the oldest among the adults.

4. When not answering to the foregoing categories, the owner or manager of the house.

Art.VI. The Foreigner registered in the record of registration of foreigners, when there occurs a change in the facts registered concerning himself or his family, shall notify to that effect the police office concerned within ten days from the date of the change.

Art.VII. Anyone who pays the following fee can apply to look over the record of the registration of foreigners or for the delivery of a copy of the registration:

1. For looking over, 5 sen each time for a family.

2. For copy of registration, 10 sen per sheet.

Art.VIII. The foreigner shall reply, when he is asked by the police official in relation to the facts requiring

notification according to Art.I, or the facts which ought to be registered in the record of registration of foreigners; he shall show his passport that he carries, or other documents certifying his nationality when he is requested by the official to do so.

The foregoing provision applies to cases where the police official questions the foreigner concerning the Japanese with whom the foreigner has lodged.

ArT.IX. The Governor General of Formosa can expel from Formosa those foreigners answering to one of the following:-

1. One who cannot obtain his livelihood.

2. One who wanders about from place to place without any fixed abode.

3. Beggars.

4. One who is seen to contribute to the disturbance of peace and order, or to the injury of morals.

5. One who has come to Formosa again without permission after he had been expelled.

The order of banishment can be compulsorily carried out either after the punishment of Art.X., or without applying Art.X.

ArT.X. One who, being ordered to leave Formosa according to Art.IX does not leave within the appointed time, and one who comes to Formosa again without the permission after he has been expelled, are to be condemned to not more than four months' imprisonment or not more than fifty yen fine.

Art.XI. One who violates Art.VIII by not obeying the request of the police official, by not answering the official's questions, or by not answering true facts, shall be fined not more than twenty yen, except in cases to which the penal code is applicable.

Art.XII. One who does not send the notices mentioned in the 1st and 2nd paragraphs of Art.I, Art.II, the 1st and 2nd paragraphs of Art.III, and Arts.V and VI is to be fined not more than Yen I.95; and one who does not notify true facts is to be fined not more than 20. yen., except in cases to which the penal code is applicable.

One who has violated the 3rd paragraph of Art.III is to be fined not more than yen I.95.

Art.XIII. The time allowed for the notification stated in the 1st and 2nd paragraphs of Art.III with regard to foreigners who are actually living in Formosa when this regulation comes into forde is counted from the date of the operation of this regulation.

One who actually has a foreigner lodging with him when this regulation comes into force shall bring forward the notification mentioned in the Ist patagraph of ArtI.

Art.XIV. The treatment of Chinese laborers and Chinese without any regular occupation is dealt with in another ordinance.

Enclosure No. 3, with Mr. Buck's No. 343 dated August 11th, 1899.

The Japan Times.

TOKYO, FRIDAY, AUG. 4TH, 1899.

PRIVATE SCHOOL REGULATIONS.

Private School Regulations were issued by Thursday's *Official Gazette* in the form of Imperial Ordinance No. 359, the text running as follows:—

"We, with the advice of the Privy Council, give Our sanction to the present Ordinance relating to Private School Regulations and order it to be promulgated.

[His Majesty's Sign Manual.]

[Privy Seal.]

2nd August, 1899.

[Countersigned.]

COUNT SUKENORI KABAYAMA,
Minister of Education.

IMPERIAL ORDINANCE No. 359.

Private School Regulations.

"Art. I.—Excepting in cases for which special provisions exist, private schools shall be under the control of the Local Governors.

"Art. II.—Any person desiring to establish a private school shall obtain the permission of the Local Office concerned.

Matters relating to the discontinuance of a private school or change of its founder shall be reported to the Local Office concerned.

"Art. III.—For a private school a Director or a person who manages school affairs on its behalf shall be appointed, subject to the sanction of the Local Office concerned.

Provisions in the present Regulations relating to the Director shall be applicable to a person who, on behalf of the school, manages its business.

"Art. IV.—Any person coming under any of the undermentioned clauses is disabled from becoming a Director or teacher of a private school:—

"1. When convicted of felony, excepting cases of political crime where offenders have been rehabilitated to the enjoyment of their civil rights.

"2. When convicted of a misdemeanor with servitude.

"3. When not rehabilitated after having been found in bankruptcy or liquidation, or when the obligation of redeeming debts has not yet been fulfilled after having been declared insolvent.

"4. When two years have not yet elapsed after disciplinary dismissal, or when the disciplinary dismissal has not yet been removed.

"5. Within two years after the cancelling of the teacher's license.

"6. When character and conduct are deemed vicious.

"Art. V.—A teacher of a private school, excepting those who possess license adequate for a school, shall be under obligation to furnish a testimony certifying that he possesses competent scholarship on the subject he undertakes to teach, and also on the national language, and shall obtain, in case of teachers of common schools or institutions of similar standing or deaf and dumb schools, the recognition of the Local Governors, and that of the Educational Minister in case of teachers of other schools. However teachers exclusively engaged in teaching foreign languages or special topics or arts, or teachers engaged in schools established exclusively for the benefit of foreigners need not furnish a testimony proving their adequate knowledge of the national language.

The official recognition mentioned in the foregoing provisions shall be good only while the recipients remain in service at the respective schools.

"Art. VI.—In case the testimony mentioned in the preceding Article is deemed inadequate, the Local Office may, with the consent of the party concerned, subject him or her to examination.

"Art. VII.—In case a Director or teacher of a private school is judged unequal to his task the Local Office concerned may nullify the recognition it has issued.

"Art. VIII.—Excepting private common schools used as substitutes for public institutions of the kind, no private school may admit a child of school age who has not yet undergone the obligation of schooling. However, the foregoing provision shall not apply to cases where children with the permission of the chief of a *shi, cho,* or *son* in accordance with Arts. XXI. and XXII of the Common School Regulations are admitted.

"Art. IX.—In case the accommodation, method of teaching, and so forth of a private school are deemed prejudicial to the interests of education, the Local Office concerned may order alterations in the same.

"Art. X.—A private school may be closed by the Local Office concerned when it comes under any of the undermentioned cases:—

"1. When provisions of the law have been violated.

"2. When they threaten to be a danger to public order and morals.

"3. When the prescribted course of teaching is not undertaken for more than six months.

"4. When the order of the Local Office concerned in accordance with Art. IX. has been violated.

"Art. XI.—In case the Local Office judges that the work of a school institution is being carried on, it shall communicate with parties concerned to that effect and shall cause them to submit to the present Regulations.

"Art. XII.—Concerning the measures dealt with in accordance with Art. X. the parties concerned may send in complaints according to the provisions of the Law of Grievances.

"Art. XIII.—In case the step mentioned in Clause 1 of Art. II., is not takep, even after the intimation specified in Art. XI. has been received, or in case the provision of Clause 2. Art. II. is violated, or where the private school closed by order in accordance with Art. X. is continued, a fine not less than 5 *yen* and not more than 100 *yen* shall be imposed.

"Art. XIV.—Those who act as Directors or teachers of private schools without obtaining the official recognition mentioned in Arts. III. and V., or after the recognition has been nullified in accordance with Art. VII., shall be liable to a fine not exceeding 30 *yen*.

Those who have employed them cognizant of the above fact shall be amenable to the same punishment.

"Art. XV.—Those who have violated Art. VIII. shall be subjected to a fine not exceeding 30 *yen*.

"Art. XVI.—The provisions of the present Regulations shall apply to private kindergartens.

"Art. XVII.—The Minister of Education may issue rules necessary for operating the present Regulations.

APPENDIX.

"Art. XVIII.—The present Regulations shall go in force from 4th August, 1890.

"Art. XIX.—For existing private schools whose establishment is not yet officially recognised, the recognition shall be obtained within three months from the date of enforcing the present Regulations.

"Art. XX.—Those persons who are acting as Directors or teachers of private schools at the time of the operation of the present Regulations, and who wish to continue in their present posts at the respective schools, must send report to that effect, excepting those who possess licenses, to the Local Offices concerned within three months from the date of the enforcement of the present Regulations. In this case it is not required to obtain the recognition mentioned in Arts. III and IV."

Enclosure No 4 with Mr Buck's No 342 dated August 11th 1899.

EDUCATION MINISTER'S INSTRUCTION.

Simultaneously with the promulgation of the Private School Regulations published elsewhere, the Minister of Education has issued the following instruction.

"It being essential from the standpoint of educational policy to make the work of general education entirely separate from religion, in Government and communal institutions and in others whose curriculum is determined by law, it shall not be allowed, even at extra hours, to give religious teaching or to perform religious ceremonies."

Ans. Sept. 7, 1899

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 343. August 11, 1899.



Mr. Buck

to the Secretary of State.

Subject:

Arrests by Japanese Police made on Foreign Merchant Vessels.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 343 August 11,1899.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to enclose herewith a copy of despatch No.789, of date the 28th ultimo, from Consul S.S. Lyon of Kobe, also a memorandum submitted by me to the Japanese Minister of Foreign Affairs on the 5th instant, in respect to the right of Japanese police officials to board American merchant vessels lying in the harbors of the open ports of Japan and to the arrest of persons on such vessels for violations of Japanese laws.

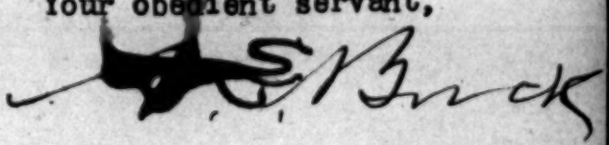
On the receipt of Consul Lyon's despatch, though conceding to the Japanese police the right to go on board of merchant vessels and to make arrests for such infractions of law as might disturb the peace of the port, for which such officials might have a warrant, or which, without a warrant, they might discover being committed, I thought it proper to have an interview with the Minister of Foreign Affairs for the purpose of calling his attention to sich vexatious and unnecessary arrests as in the case giving rise to the complaint brought to my attention by our Consul, and of suggesting to him that such instructions be given to the police officials as in future would avoid arrests for technical and frivolous offenses, or for no real offenses, as shown to have been the case in the arrest of the two Chinese passengers on board the "China."

In

In discussing the matter with the Minister, I found that he fully concurred in my view and expressed his purpose to bring the subject to the attention of the full Cabinet for consideration and action to prevent unwarranted arrests through the mistaken zeal of the police, and it was thought proper by both of us that I should submit to him an informal memorandum upon the subject for that purpose, as I immediately did.

So far as I am informed, no action by the Government has yet been taken in the direction of my suggestion, but if the Cabinet take a like view of the matter as expressed by the Minister of Foreign Affairs, of which I have little doubt, such instructions will be issued to the Japanese police officials as will in future prevent annoyances of the character complained of.

I have the honor to be,
Sir,
Your obedient servant,



Enclosures:

1. Mr. Lyon to Mr. Buck, July, 28, 1899.
2. Mr. Buck's Memorandum.

Enclosure No.1 with Mr.Buck's No.343 dated August 11th, 1899.

(Copy)

No.789. Consulate of the United States of America,
Osaka and Hiogo, Japan,
Kobe, July 28th, 1899.

Sir:

I have the honor to inform you that while lying in this port, today, the American steamship "China" was borded by a Japanese police officer, who immediately proceeded to handcuff two Chinese passengers on that vessel, with the intention of conveying them to a police office on shore. His pretext for such action was, that the said passengers had been playing at the game of dominos while the vessel lay in port.

At the instance of E.W.Tilden, Esquire, Agent at this port of the said steamship company, W.B.Seabury, master of the said vessel, made a complaint in the matter before me, after which, I immediately forwarded a dispatch to the Governor, demanding the removal of the said policeman from the ship, without further molestation of the daid Chinese passengers.

I then sent my interpreter with the dispatch to the Ken-cho, accompanied by the master of the vessel.

They were received by the secretary (acting governor) who offered to bring the police officer off the vessel, provided the master would make affidavit that the accused passengers were not guilty of any greater offence than that alleged.

The master replied that he saw no necessity for doing so, as that was not the question at issue; what he claimed was that no Japanese officer could lawfully board his ship without permission of the United States Consul,—after which he received a promise that the officer should be withdrawn.

I

I beg to call your attention to the necessity of such instructions' being given to the Japanese officials at Kobe as will avoid a repetition of such proceedings.

Since writing the above, I have learned that the Japanese officer finally brought the accused Chinese off the ship, but that they were afterwards returned.

I have the honor to be,

Sir,

Your obedient servant,

(Signed) Samuel S.Lyon,

Consul.

His Excellency

Alfred E.Buck,

Envoy Extraordinary & Minister Plenipotentiary of the United States of America,

Tokyo.

Enclosure No.2 with Mr.Buck's No.343 dated August 11th, 1899.

(Copy)

Memorandum.

For His Imperial Japanese Majesty's Minister for Foreign Affairs.

August 5, 1899.

In view of the recent occurrence of the arrest by the police of Kobe of two Chinese passengers on board the American steamship "China" lying in the harbor of Kobe, who were engaged, as afterwards shown, in the innocent game of dominos, and who were taken on shore for the violation of the law against gambling, it seems to me desirable that some instructions be given to the police of the open ports as will prevent the unnecessary arrest of persons on merchant vessels lying in harbor, who have not been, or may not be, violating the law, or if technically doing so are in no wise disturbing the peace of the port.

In informally presenting the above memorandum the Minister of the United States does so simply to call attention of His Excellency the Minister of Foreign Affairs in view of the case cited, to the propriety, as it seems to him, of having such instructions given to the local authorities of the open ports by His Majesty's Government as may be deemed consistent and proper to prevent unnecessary and vexatious arrests .

The Minister of the United States does not wish to be understood as objecting to Japanese police officials' boarding American merchant vessels, or to their making arrests for criminal offences in violation of the Japanese law committed on such vessels in harbor—offences in consequence of which " the peace of the port is disturbed", or of such a character

that

that the ends of justice may require arrests. He only desires that the police, in boarding such vessels, shall not, through mistaken zeal in the discharge of their duties, make unwarrantable and improper arrests, and thereby cause the unnecessary trouble and illfeeling that such over-zeal of police officials engenders, and that he fully believes His Majesty's Government desires to prevent.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No.344. August 18,1899.



Mr.Buck

to the Secretary of State.

Subject:

Confirming Department's telegram in re landing army horses at Kobe and Mr.Buck's telegraphic reply.

No.344. UNITED STATES LEGATION, TOKYO, JAPAN. August 18, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to confirm the Department's telegraphic instruction received the 12th instant, as follows:

"Washington, August 10, 1899.

"Buck, Minister, Tokyo.

"Ask inclusion Kobe permission land horses; transports "may coal there.

"Adee, Acting."

and also my telegraphic reply as follows:

"Tokyo, August 16, 1899.

"Secstate, Washington.

"Landing horses at Kobe allowed.

"Buck."

The permission was readily extended to Kobe and I instructed our Consul there in the matter.

I have the honor to be,

Sir,

Your obedient servant,

Buck

File

UNITED STATES LEGATION,
TOKYO, JAPAN.

No.345. August 14, 1899.



Mr.Buck

to the Secretary of State.

Subject:- Confirming Mr.Buck's telegram in re transfer of Yokohama lots.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 345. August 14, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to confirm my cipher telegram of date the 4th instant, as follows:

"Tokyo, August 4, 1899

"Secstate, Washington.

"I am informed by Japanese Minister for Foreign Affairs "that if Navy Department at once surrenders lease to Yokohama "lots they will be transferred to Pacific Mail Company. A "dispatch from the Consul General of the United States at "Yokohama last June Number 141 will give you information about "lots. Navy Department assenting, authority is requested by "telegraph to me to act. Telegrams will be charged company

"Buck"

Awaiting your instructions in this matter,

I have the honor to be,

Sir,

Your obedient servant,

Lloyd Buck

Paid by Pacific S.S. Co. and Credited in Mr. Buck's account for 3d Qur 1899.
M.

No. 282.

ASSISTANT SECRETARY, Dept. Aug 16 AUG 16 1899

TELEGRAM RECEIVED IN CIPHER.

From Tokio, August ~~31~~ 16, 1899.

Received 11.46 A.M.

Secstate,

Washington,

✓ Confirmed aug. 18

Confirm.

Landing hordes at Kobe allowed.

Buck.

Received 11:50 o'clock A. M.

Deciphered By

Wm. H. Michael, Chief Clerk.

12 o'clock M.

Copies delivered to

Ciphered by Chief Clerk.

, 189 , M.

UNITED STATES LEGATION,
TOKYO, JAPAN.

DIPLOMATIC,
SEP 18 1899
BUREAU.

No. 346.

August 17, 1899.



To Navy
War
Sept 18

Mr. Buck

to the Secretary of State.

Subject:

Use of Naval Hospital for returning soldiers.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 346.

August 17, 1899.

Honorable John Hay,

Secretary of State,

Washington.

Sir:- In view of the statement contained in the enclosed copy of a letter of Reverend Doctor H. Loomis, of Yokohama, as also of facts coming to my knowledge from other sources, in respect to the necessity of temporarily caring on shore for some sick soldiers in transit from Manila on ships lying in the harbor of Yokohama for some days, and in consideration of the prospect that many more transports from Manila with sick soldiers on board may put into that harbor to remain a short time, I have the honor to recommend that the Navy Department instruct the Surgeon in charge of the Naval Hospital at Yokohama to receive temporarily and care for such sick soldiers as he may have room for and as may be necessary, on request of the commanding officer or surgeon in charge on board any transport calling at that port.

I have the honor to be,

Sir,

Your obedient servant,

A. C. Buck

Enclosur: Copy of letter from Rev. Dr. Loomis.

Enclosure with Mr. Buck's No.346.

(Copy.)

Bible House,

Yokohama, August 14, 1898.

Hon. C. Buck,

U. S. Minister to Japan.

Dear Sir:-

The American residents in Yokohama have been so much gratified in seeing what a fine body of men the volunteers are who are now passing through here on the U.S. transports they have undertaken to do all that is in their power to make their stay in Japan a pleasant and profitable one.

It is found that the men are carried in close, dirty, and uncomfortable quarters, and suffer not only from disease, but the want of a change in diet and their surroundings. One poor fellow died just before reaching here, and his comrades insist that it was owing to the conditions in which he was placed rather that the disease.

The ladies have attempted to extemporize some suitable accommodations on shore where all patients who are able to be removed could be given a rest and some attention and treatment as their condition required. The effect which this has had upon these poor fellows is simply marvelous.

The present arrangements are only temporary, and very imperfect, and the success of the enterprise depends very much upon having the proper accommodations. What is needed is just such a place as the empty wards in the Naval Hospital. At present there are but five

five sick men in that place, and there are accommodations for forty-two.

As the Hospital belongs to another Department it is necessary to get permission from Washington in order to have it open for the admission of the soldiers during the time of their stay in Yokohama.

Can you not send a statement of the case by the mail which leaves on Friday and get an answer by a telegram? Another transport is due on the 18th and others are to follow as fast as possible.

In the present condition of affairs accommodations should be provided in the East for our soldiers as well as for the men in the Navy. The privations and suffering which they have been called upon to endure entitle them to the best care that can be given.

Respectfully yours,

(Signed) H. Loomis.

SP: COM- PLENIPO.

Rec'd Sept 16, 1899

Noted & returned

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 347.

August 18, 1899.



Encl Desp 6

See No. 308, Jan. 9, 1900, from Min. to China.

Mr. Buck

to the Secretary of State.

Subject:

Export duty on Formosan tea.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 347.

August 18, 1899.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to transmit herewith copies of the correspondence relating to the imposition of discriminating duties imposed upon tea exported from Formosa, in favor of its export to Japanese ports and against its export to foreign ports, consisting of a letter from the Amoy General Chamber of Commerce, date of the 2[illegible] ultimo, and my reply of the 18th instant, also a letter from the Tamsui General Chamber of Commerce of date of the 29th ultimo, and the despatch of United States Consul Davidson of Tamsui, of the ~~18th~~ 14th instant, in forwarding it, together with a supplemental despatch of Consul Davidson upon the same subject of date of the 4th instant, and my response of date of the 17th instant.

Without instructions and without any complaint or protest against such discriminating duties from any American citizens or firms, of which there are several in Formosa and Yokohama engaged in the exportation of tea to the United States, and being in much doubt whether such discrimination would not enure to the advantage of such firms in shipping tea direct to our Pacific ports, I did not feel authorized, or that it was necessary, to complain to the Japanese Government of its action in the premises. Hence I submit the matter for consideration and for such instructions, if any, as the interest of our commerce in the East may require.

I have the honor to be,

Sir,

Your obedient servant,

Enclosures

UNITED STATES LEGATION,
TOKYO, JAPAN.

Enclosures:

1. Amoy General Chamber of Commerce to Mr. Fuck.
2. Mr. Buck to the Amoy General Chamber of Commerce
3. Tamsui General Chamber of Commerce to Mr. Buck.
4. Mr. Davidson to Mr. Buck.
5. Mr. Davidson to Mr. Buck.
6. Mr. Buck, to Mr. Davidson.

Enclosure No.I with Mr.Buck's No.347 dated August 18th, 1899.

(Copy)

Amoy General Chamber of Commerce,

Amoy, 24th July, 1899.

Your Excellency:

I have the honor to bring to your notice that the Formosan Government has notified its intention of imposing a duty Yen 1.60 per picul on tea exported from Formosa to foreign countries, whilst tea exported to Japan will be free of duty and may be shipped thence abroad likewise free of duty.

The object of this proposed duty is to favor the line of steamers running between Formosa and Japan, and to divert the tea trade as much as possible from the present channel, via Amoy and Hongkong by placing a discriminating duty of Yen 1.60 per picul on it.

This would not seem to be in accordance with the new treaties which, as we read them, require that Japan and her possessions should have the same tariff.

The consumption of Formosan tea in Japan and China is absolutely nil, such teas whether landed in Japan, a Chinese port, or Hongkong are ~~are~~ in transit for the United States, Great Britain, the continent of Europe, Australia or the Dutch colonies. The route from Formosa via Japan might favor the teas shipped by the Pacific, but as regards the great bulk of the shipments, that is, those via Suez to the United States Great Britain, and the continent of Europe, and those to Australia and the Dutch colonies, it is out of the question to send such to Japan. The proposed duty would therefore discriminate in favor of one route to one country and against all other routes and countries.

It

It is argued that the Japanese Government only asserts its right to fix the tariff between Formosa and Amoy (the latter being a Chinese port) in accordance with agreements between Japan and China. This agreement disregards the fact, as shown above, that the teas do not come to Amoy for consumption, but in transit to foreign countries.

Our merchants claim that they are at liberty to clear their teas at the Formosa customs for the United States, Europe &c. via Amoy or any other route, paying duty according to the Japan tariff applicable to such countries of final destanation, and it is in the hope that you will support this view that this chamber asks your assistance in combatting in good time any disability, which may be impending, to the liberty of a merchant to ship by whchever route he may please.

I have the honor to be,

Your Excellency's most obedient

Servant,

Francis Cass,

Chairman.

Enclosure No.2 with Mr.Buck's No. 347 dated August 18th, 1899.

(Copy)

No.312. United States Legation, Tokyo, Japan,

August 18, 1899.

The Honorable Chairman,

Amoy General Chamber of Commerce,

Amoy.

Sir:

I beg to acknowledge the receipt of your communication of the 24th ultimo, in behalf of the Amoy General Chamber of Commerce, bringing my attention to the then proposed discriminating export duty on tea shipped from Formosa, which duty is now imposed in favor of its export to ports of Japan as agains its export to foreign countries.

In reply I have to say that as yet having received no protest or complaint of any American citizens or firm, from any quarter, interested in the export of tea from Formosa, and having received no instructions from my Government in respect to the proposed discriminating duties complained of,, awaiting further information I do not think it best at this time to enter a formal complaint in the matter as suggested in your communication.

I am, Sir,

Your obedient servant,

(Signed) A.E.Buck.

Enclosure No.3 with Mr.Buck's No.347 dated August 18th, 1899.

(Copy)

Tamsui General Chamber of Commerce,

Tma-tu-tia, 29th July, 1899.

Sir:

I am requested by the Tamsui General Chamber of Commerce to protest to you against discriminating duties to be levied in the export of tea by any particular route on and after 4th August.

The Chamber desires if possible that all export duties(on tea and/or merchandise) be taken off in Formosa as has already been done in Japan; but should such an arrangement not be attainable, then the Chamber prays that all export duties levied in Formosa be the same by whatever route exported.

The Chamber strongly protests against any discriminating duties whatever and prays that you will be kind enough to forward its protest to the Minister for the United States at Tokyo at as early a date as possible.

I am, Sir,

Your obedient servant,

(Signed)H.Moller, Secretary.

J.W.Davidson Esqre.,

Consul for the United States,

Tma-tu-tia.

Enclosure No.4 with Mr.Buck's No.347 date August 18th, 1899.

(Copy)

No.218. Consular Service, U.S.A.,

Tamsui, Formosa, August 1st, 1899.

Hon.A.E.Buck,

U.S.Minister,

Tokyo.

Sir:

I have the honor to enclose a document handed to me by the Secretary of the local Chamber of Commerce that explains itself. This document has I believe been sent to the British, German and Spanish Ministers in Tokyo.

I am unable to recommend the position taken by the Chamber for the reason that it is directly opposed to the interests of Americans here.

There are in Formosa four English firms who have their main establishments in Amoy. For years the Formosan tea trade has been in the hands of these firms, and executed through their main establishments im Amoy. But there being now two large American tea firms (Messrs. Smith, Baker, &Co. and Geo. H.Macy &Co.) established here, a portion of the business has passed through their hands, and they are naturally desirous of shipping to America by the most direct route—viz. via Japan. This has not been practicable in the past, however, as the expenses of shipment via Japan greatly exceeded the cost via Amoy. But now it is the intention of the Japanese Government to make an allowance for the extra shipping expense by lessening the impost at Kelung on shipments to Japan, thus rendering it possible to ship tea either by Amoy or Japan on about an equal basis. The English in Amoy, however, who are desirous of controling the total Formosan tea export are apparently

much

much annoyed at the proposed changes and the document herewith enclosed is the outcome of instructions received by the various English branches from their Amoy chiefs. Americans here have refused to attach their signatures to the petition circulated by the Chamber of Commerce and I am requested by them to inform you of this fact.

I have not sufficient time prior to the closing of the mail today to place the matter before you in a more clear and complete manner, but it is my desire that you have the earlies information possible about this important matter, and I will write you mare at length by next mail.

I have the honor to be,

Sir,

Your obedient servant,

James W.Davidson,

U.S.Consul.

Enclosure:—Petition of Chamber of Commerce.

Enclosure No.5 with Mr.Buck's No.347 dated August 18th, 1899.

(Copy)

United States Consulate,

Tamsui, Formosa, Aug. 4th, 1899.

Hon.A.E.Buck,

U.S.Minister,

Tokyo.

Sir:

In addition to the information given you in my communication of August 1st (No.218), I have the honor to state that I have been officially informed that the duty of Yen 1.60 a picul (133 lbs.)on Oölong tea exported from Formosa to foreign ports, and the so called "Harbor Tax" of Yen 1.00 a picul which will be imposed on shipments from any Formosa port to any port in Japan, will be placed in force from today. I am informed that a protest from the Amoy Chamber of Commerce was forwarded you some days ago. In a copy of this document which I have seen there appears to be one notable discrepancy—viz. no mention is made of the Yen 1.00 so called "Harbor Tax" which will be imposed on shipments to Japan and which is not collectible on goods exported to foreign ports. The document drawn up by the Formosan Chamber, and which I forwarded to you last mail, puts the matter in a more correct light than the Amoy petition.

The actual discrimination with tea laid down in Kobe and Amoy, the two ports of trahshipment, will be shown by the following table:

Charges via Kelung to Kobe per half chest.

Coolie hire ---------- ----------	Yen	.01
Loading cars ----------	"	.005
Freight to Kelung ----------	"	.02
	Harbor	

Harbor Tax (1.00 per picul) ----------	Yen	.33
Cargo boat hire ----------	"	.02
Freight to Kobe ----------	"	.12
Total ----------	Yen	.505

Charges via Tamsui to Amoy per half chest.

Coolie hire ----------	Yen	.01
Cargo boat hire ----------	"	.03
Duty Tamsui (I.60 per picul)----------	"	.53
Freight to Amoy ----------	"	.05
Total ----------	Yen	.62

You will note that there is now with the new imposts, virtually a premium on shipments via Kobe of some 11 Sen a half chest (40 lbs.). However, it is not yet known whether it will be necessary to protect the tea boxes with bamboo strips for the comparatively long journey to Kobe, or if they can be sent entirely unprotected as is done with tea shipped across the channel to Amoy. If it is found necessary to provide this covering for the boxes sent to Kobe, the expense will amount to 17 Sen per package, and give a margin considerably in favor of Amoy shipments.

Ninety per cent of the tea produced in Formosa is exported to the United States and nearly half of this season's crop will be handled by the two American firms here, viz. Messrs. Geo.H.Macy &Co., and Smith, Baker, &Co. The balance of the Business will be conducted by the four Amoy firms (English) and one house (English) with headquarters in Yokohama.

Over a third of the tea is shipped by Pacific steamers to the western states and the balance forwarded via Suez Canal

steamers

steamers to New York.

The shortest and most natural route for the Suez shipment is via Amoy and for the Pacific coast states via Kelung and Kobe. But these latter shipments have previously been made via Amoy, passing through the hands of the English firms there. It will now, however, with the new imposts, be possible to send the tea via Kelung and Kobe without loss, thus permitting the tea to reach the states 7 to 10 days or more earlier than when forwarded by the old Amoy route.

The above is a practical view of the question. Besides this of course, there is the principle which may be contrary to the best and broadest interests of foreign commercial intercourse with Japan, and with this in view you may see fit to use your influence in opposition to the new measure. I enclose a clipping from the local paper which will give you clearly the English view of the question.

I have the honor to be,

Sir,

Your obedient servant,

(Signed) James W.Davidson,

U.S.Consul.

Enclosure, #1 newspaper clipping.

Enclosure No 1. with despatch 220.

THE FORMOSAN
is published every Saturday at the Office
Kenchogai, Nichome, No. 19/21

H. W. S. EDMUNDS, Publisher and Editor.

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Special rates for longer periods.

THE NEW TEA DUTY.

—:o:—

From the coming into operation of the New Treaties, export duties in Japan have been abolished, but not in Formosa. Here the old duties have been taken off, and in their place a new duty of Yen 1.60 per picul on Ooloongs, and Yen. 1.20 on Pouchongs, is imposed on all shipments to places other than ports in Japan, and on shipments to these latter a harbour duty of Yen 1.00 and Yen 0.60 per picul, respectively, is payable. These changes were made without any, or the least, notice being given the general public, or the firms interested, and it was first arranged that they should go into effect on July 17th, but afterwards changed to August 4th. The object of these new duties, at first sight, to one unacquainted with the actual circumstances of the case, would appear to be simply to encourage trade between the island and Japan, but the result is really while observing the letter of the Treaties, to set aside their general spirit and intention, and effect a very substantial discrimination *in favour of a route which happens to be under the control of Japanese Steamship Companies only, as against one which is not so controlled.* The general purpose and intention of the Treaties is to put foreigners and Japanese on exactly the same footing as regards both imports and exports, and to allow no discrimination in favour of either one or the other, but here, while obeying the letter of the Treaty, the general tenor and spirit is entirely cast aside, and a state of things inaugurated, which, under the circumstannces of the case, amounts to a very practical discrimination against the foreigner, and in favour of themselves. Moreover, as, at present, there are no sailings direct from Formosa to America,—which is, far and away the largest consumer of Formosa Ooloongs,—but only via Amoy and Japan, and as all shipments from Formosa to America must, therefore, go either to Japan or Amoy for transhipment, the effect of this lop discriminating in favour of the route to Japan, is to place shippers via Amoy at a positive disadvantage in the markets of America as against shippers via Japan, and as such is not only unfair in our opinion, but arbitrary in the extreme. The tea trade of this island has been built up in the past with capital introduced from Amoy, and Amoy houses have large interests here, and are amongst the principal purchasers and shippers of the crop, so that discrimination against Amoy is the last thing one would expect from the Government, especially when one considers that the trade was in full swing and well established long before the Japanese came to the island. We must say it seems to us a mistake, and, whatever may be their legal rights on the subject looking at the mere letter of the Treaties, we cannot but think they are unwise in making any discrimination at all. Furthermore, as a matter of policy, and in their own interests, it seems to us very short-sighted. Shipments to America during past years have been so heavy that at the present moment the stock of Ooloongs in that country amounts to quite eighteen months supply, at the average rate of consumption for all America, and the trade there is practically at a standstill, except for account of direct consumers, so that it becomes imperatively necessary, in the interests of the island, to encourage new outlets wherever they can be found, if production is not to be curtailed. Is this the way to encourage the finding of these new markets? We hardly think so. Competition is so keen now-a-days, that the very best thing Government could do to promote the sale of the island's teas, and to encourage the finding of new outlets, would be to take off all duties altogether, if only revenue interests would permit it. Formosan teas would then be placed in a better position to compete with the teas produced in other countries, and the island's welfare and prosperity promoted accordingly.

Yet another effect of this discrimination in favour of Japan, *is to give buyers in countries to whom shipment via Japan is convenient, a preference in the market here over buyers in countries to whom shipment by way of Japan is not convenient!* Now, have the Government, by the Treaties, any right *to do anything*, which will place, *be the pretext what it may*, any one country at an advantage over any other, equally entitled to the most favoured nation treatment? We hardly think so. Has it, for instance, any right, *not only as regards tea, but as regards any product*, to place merchants doing business with say England, Australia, or the Straits, *to whom shipment via Japan is not convenient, at a practical disadvantage in the market* as compared with, say, shippers to Canada, or America, or Siberia, to whom shipment by way of Japan is convenient? We cannot believe it. Yet that is what the new duties practically do! Again, the shipments of Formosan Pouchongs to the Straits mount up to some 60,000 to 70,000 half chests per annum. Is it reasonable to expect that shippers of these teas should have to send their teas to Japan for transhipment instead of to Amoy or Hongkong, or be mulct in a heavier taxation if they do not? Did the framers of the Treaties contemplate such a state of things? Surely not! If Japan desired the teas for her own consumption, something might be said in favour of her action in trying to divert the trade to her shores, but where *she needs but little, if any*, (preferring, as she does, her own teas), *and is only discriminating in favour of the route to her shores to benefit the Steamship Companies, which, at present, have control of the route*, it is quite a different matter. The discrimination to-day is but small, to-morrow it may be very much larger! Now, it is but tea that is affected, to-morrow it may be something else. And *if the principle were generally applied, trade in the island, save with Japan, might be made a practical impossibility!* Is it to the interest of the island that such a state of things should come to pass? We cannot think so. We are well aware America takes the bulk of the crop produced in the island, and that a large part of this is shipped by way of Japan, but that does not affect the matter one whit. If the shipments to other countries were but a single catty even, *the Japanese Government would have no right to discriminate against the route of easiest or most convenient shipment, or to place the shippers to these countries, having claim to most favoured nation treatment, at any disadvantage as regards shippers to other countries.* Encourage the Japanese Mercantile Marine all you will,—we would like to see it grow, and wish it well,—but let it be done without doing harm to established interests and without discriminating against any route or in favour of any. *In a word, do not put on any duties, which, under any pretext, bring about results which are contrary to the equality of treatment, and equal freedom of trade, contemplated by the Treaties, as are the results produced by this new duty law*, for such, must, of necessity, we take it, be deemed *ultra vires*, as being contrary to the spirit and intentions of the Treaties. The new duties, as we have said above, are not to come into operation until August 4th, and we will hope that on reflection and reconsideration the Government will determine, before that date, not to enforce them, and in the meantime we would advise that representations in the matter should be made in the proper quarters to bring about this result. It might, we think be well, for all the parties interested,—Shipping Companies, Merchants and others, both foreign and Chinese,—to join together and take united action in the matter.

Enclosure No.6 with Mr.Buck's No.347 dated August 18th, 1899.

No.311. (Copy)

United States Legation, Tokyo, Japan,

August 17, 1899.

J.W.Davidson, Esquire,

United States Consul,

Tamsui, Formosa.

Sir:

I have to acknowledge your Dispatch No.218 of the 1st instant enclosing a communication of the Tamsui General Chamber of Commerce, sent to me through you at the request of the Secretary of that body, protesting against discriminating duties levied on the export of tea from Formosa by any particular route, and also expressing the desire that all export duties on tea or other merchandise be taken off as has already been done in Japan proper.

In reply I beg to state that, as yet, having received no protest or complaint from any citizens of the United States doing business in the export of tea in Formosa, or in Japan proper, and having received no instructions from my Government to enter a protest against such discriminating duties complained of , I do not feel at liberty at this time to make a formal complaint to the Japanese Government so much desired by the General Chamber of Commerce at Tamsui.

Please inform the General Chamber of Commerce that, awaiting instructions from my Government, I regret that I cannot at this time comply with their wishes in respect to the matter under reply.

I am, Sir,
Your obedient servant,

(Signed) A.E.Buck.

DIPLOMATIC,
SEP 23 1899
UNITED STATES LEGATION,
TOKYO, JAPAN.

No.348. August 28, 1899.

INDEX BUREAU
REC'D.
23 SEP '99
DEPT. OF STATE

Mr. Buck

to the Secretary of State.

Subject:

Confirming Department's telegram dated August 26th, about Navy Department's refusal to surrender lease of Yokohama lots.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 348. August 28, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to confirm the Department's telegram received today, as follows:

"Washington, August 26, 1899."

"Buck, Minister, Tokyo.

"Secretary Navy declines surrender lease Yokohama stor-
"age premises.

"Adee, Acting".

I have the honor to be,

Sir,

Your obedient servant,

A. S. Buck

DIPLOMATIC,
SEP 25 1899
UNITED STATES LEGATION,
TOKYO, JAPAN.
BUREAU.

2D ASSISTANT SECRETARY,
Ack. by Number and File.
SEP 25 1899

No. 349.

August 29, 1899.

INDEX BUREAU
REC'D.
23 SEP '99
DEPT. OF STATE

Mr. Buck

to the Secretary of State.

Subject:

Appointment of Marquis Ito to the post of Chief of the Bureau for the Investigation of Matters relating to the Imperial Family.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 349.

August 28, 1899.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to enclose herewith a clipping from the "Japan Times" of the 25th instant, upon the subject of the appointment of Marquis Hirobumi Ito as Chief of "The Bureau for the Investigation of Matters relating to the Imperial Family", which bureau, as announced in the "Official Gazette" was created on the 24th of the present month.

The new post to which Marquis Ito has been appointed it is considered will be of great importance in the practical working of the Government.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

Enclosures:

1. Editorial clipping from Japan Times.

2. Translation of announcement in The Official Gazette.

Enclosure No 1, with Mr Buck's No 349, dated August 29th, 1899.

The Japan Times.

TOKYO, FRIDAY, AUG. 25TH, 1899.

The New Bureau at Court. A few words of explanation may not be out of place as to the object and nature of the Bureau which has just been established at the Imperial Court under the presidency of Marquis Ito. As may be inferred from its name—Bureau for the Investigation of Matters Relating to the Imperial Family—the scope of the business set before the newly created office is pretty wide. To mention some of the more important matters it will have to inquire into and draw up rules for the future, there are the rites and ceremonies connected with coronation, proclamation of the Heir-Apparent, the marriage and funeral of Imperial personages. There are also matters that remain to be systematized in connection with the different kinds of Imperial property, its management, its relationship with the Civil Code and the public finances. Then again there are matters about which questions may arise, and have indeed not infrequently arisen in the past, as to whether they fall within the competency of the Cabinet or that of the Household Department. All these matters, together with many others of secondary importance, will have to be studied and considered thoroughly by the Bureau just established. In the course of their studies, the officials of the Bureau will have to make extensive investigations into the annals of the Court as well as of the precedents obtaining in foreign countries. It will thus be seen that the task entrusted to Marquis Ito will demand the closest attention of himself and his subordinates for a pretty long space of time. It is scarcely necessary to say that, with the conclusion of the work for which it has been called into existence, the Bureau under consideration will cease to exist. The need of such a Bureau has long since been recognized in Court circles, but circumstances have hitherto prevented its organization. But now that the Cabinets are certain to assume party character more and more, it is evidently a matter of urgent importance that permanent rules should be established, pointing out the line of demarcation between matters falling within the scope of state authority and those appertaining exclusively to the Household Department. It is needless to say that the task involving such delicate and difficult problems could not be entrusted to a better man than Marquis Ito, whose political knowledge and experience are as unequalled as the Imperial confidence enjoyed by him is unbounded.

Enclosure No 2, with Mr Buckle No 349, dated August 29th, 1899.

Translation of announcement in the Official Gazette of August 25th.

Yesterday, on the 24th instant, the Bureau for the Investigation of Matters relating to the Imperial Family was established at the Imperial Court, and the offices of President, vice president, goyogakari (business manager), Shuji (manager) and clerks were instituted.

DIPLOMATIC,

SEP 5 1899

TELEGRAM RECEIVED.

BUREAU.

Cable Bureau

2 WU SO WA 22 Words.

From Tokio, Sept. 2, 1899 189

Received 11:20P M.

SecState,

3rd. ASST. SECRETARY SEP 3 1899

Washington.

Sent to Navy Dept. for information & action

September 2, Commander transport Morgan City telegraphes; "Struck rock Inland Sea beached ninety miles Kobe probably disabled soldiers landed."

Buck.

282.

TELEGRAM RECEIVED IN CIPHER.

DIPLOMATIC,
SEP 7 1899
BUREAU

From Tokio, Sept. 6, 1899.

Received 9.35 A.M.

Secstate,

Washington,

In view of my number 336 in respect of copyright shall I carry out your instructions date of July 25.

Buck.

Confd. Sept. 8.

ered by Chief Clerk.

, 189 , M.

DIPLOMATIC
OCT 16 1899
BUREAU.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 350

September 7, 1899.

INDEX BUREAU
REC'D
4 OCT '99
DEPT. OF STATE

Oct 21/99

2D ASSISTANT SECRETARY.
Copy to Sec of War for information. Minister Buck was instructed to express appreciation of the courteous aid rendered in the several matters mentioned.
OCT 14 1899
So instruct Mr. Buck.

Mr. Buck

to the Secretary of State.

Subject:

Confirming Mr. Buck's telegram dated September 2nd, about the wreck of the "Morgan City" and giving further information on the same subject.

No. 350. UNITED STATES LEGATION, TOKYO, JAPAN. September 7, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to confirm my telegram of date the 2nd instant, as follows:

"Secstate, Washington.

"Commander transport Morgan City telegraphs struck rock "Inland Sea; beached ninety miles Kobe; probably disabled; "soldiers landed.

"Buck."

Soon after receiving the news from the commander, who desired me to cable it to Washington, I received a telegram from Captain Onofre Befbeder, commanding the Argentine training ship "Presidente Sarmiento", reading as follows:

"United States Minister, Tokyo.

"I have the honor to communicate to Your Excellency that "this morning on entering the northern passage with my ship I "found the United States transport Morgan City aground on Inno-"shima. Immediately on seeing her I anchored and sent an offi-"cer to offer my services; but the captain answered that though "the ship had a big hole in her bottom caused by running on a "rock.an hour before he needed no immediate assistance and had "already telegraphed to Nagasaki. The troops and crew were in "no danger at all. Captain Argentine Training ship 'Presidente "Sarmiento".

I have addressed a letter to Captain Befbeder expressing high appreciation of his kind offers and courtesiy. The

The next telegraphic intimations, received on the 3rd, from Mr.Wittich, in command of the troops who were on the "Morgan City," and from one of the quartermasters, were to the effect that they needed provisions and that they desired the Japanese Government to permit the purchase of food on credit. Accordingly, by my direction, Consul Lyon at Kobe sent supplies early the following morning, and supplies were also sent from Nagasaki, until I was informed by the commander that a sufficiency had been received. Also, the Foreign Office, at my request, wired to the Governor of the locality, Hiroshima Prefecture, to endeavor to facilitate the extension of credit. It appears that both money and provisions were lost on board.

Soon after the accident, the Governor of Hiroshima sent police and medical attendants from the local branch of the Red Cross Society, to render assistance, and, it appears, provided communication by steamer between Miura village on the island of Innoshima and Onomichi, nearby, the nearest telegraphic and railway point on the mainland, and acted throughout with great kindness.

I am informed that on the 3rd the Japanese cruiser "Yo-"shino", especially sent from the naval station at Kure, visited the "Morgan City", asked if she could render any possible assistance, and received the reply that none was needed. The Navy Department here also expressed to Lieutenant Key, who chanced to be there on other business, their anxiety and willingness to do anything further that might be desired. I shall not fail to acknowledge with thanks their gracious offers as well as the services of the Governor.

On the 4th Governor General Otis telegraphed to me requesting the facts about the "Morgan City", and offering at once to send a transport to convey the troops to Manila. I communicated

I communicated this offer to the commander, and recommended to him and to General Otis that they consult together by telegraph, which was done, I being convinced that arrangements concerning the troops could be best adjusted by an understanding between those officers.

General Otis, he informs me, sent on the 5th the transport "Ohio" to convey the troops to Manila from Nagasaki, for which place, I learn from the commander, the troops are imbarking by a Japanese steamer today.

I have the honor to be,

Sir,/

Your obedient servant,



File

DIPLOMATIC,
OCT 16 1899
BUREAU.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No.351. September 8, 1899.

INDEX BUREAU
REC'D.
14 OCT '99
DEPT. OF STATE

2D ASSISTANT SECRETARY.
Ack and file.
OCT 14 1899

Mr. Buck

to the Secretary of State.

Subject:

Confirming Mr. Buck's telegram dated September 6th, in re copyright, and acknowledging circular of July 25th last, on the same subject.

No. 351.

LEGATION OF THE UNITED STATES,

Tokyo, Japan, September 8, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to confirm my cipher telegram dated the 6th instant, reading as follows:

"Secstate, Washington.

"In view of my Dispatch No.336 in respect of copyright,
"shall I carry out your instruction date of July 25?

"Buck."

In view of the fact that before the date of my Dispatch No.336, of the 20th July last, I had a discussion of the matter of copyright with the counsellor of the Japanese Foreign Office and was led to believe that the Minister for Foreign Affairs, by reason of the Article XXVIII quoted in my dispatch, could not make the declaration required upon which the President could make proclamation to the effect that the first alternative condition of Section 13 of the Act of March 3rd, 1891, is fulfilled in respect to Japan, on receipt of your circular instructon of July 25th last, I sent the telegram confirmed above—beleiving that I might not be justified in failing to comply with the instruction unless so directed, and beleiving that it would be useless to present the matter to the Minister for Foreign Affairs as dnstructed.

I have the honor to be,

Sir,

Your obedient servant,

W. W. Buck

DIPLOMATIC,
OCT 16 1899
BUREAU.

No. 352.

LEGATION OF THE UNITED STATES,

Tokyo, Japan, September 9, 1899.

INDEX BUREAU
REC'D.
14 OCT '99
DEPT. OF STATE

Ans Nov 3/99

DIPLOMATIC,
OCT 17 1899
BUREAU.

Mr. Buck

to the Secretary of State.

Consular Bureau.
OCT 17 1899

(Enclosure in Consular Bureau.)

barr.

Subject:

Enclosing English copy of Japanese Consular Regulations in force under the old treaty, asked for by Instruction No. 238, dated August 12th.

No.352. LEGATION OF THE UNITED STATES,

Tokyo, Japan, September 9, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to enclose herewith a copy of the English edition of the regulations prescribed for Japanese consulates before the treaty between the United States and Japan, of November 22nd 1894, went into effect, which was asked for by your Instruction No.238 dated the 12th ultimo.

I have the honor to be,

Sir,

Your obedient servant,

Alvey A. Buck

Enclosure:

One copy of the Consular Regulations of the Empire of Japan (old ones), as above.

DIPLOMATIC,
OCT 19 1899
BUREAU.

No. 353.

LEGATION OF THE UNITED STATES,

Tokyo, Japan, September 18, 1899

INDEX BUREAU
REC'D.
14 OCT '99
DEPT. OF STATE

2D ASSISTANT SECRETARY.
Ack. by Number and File.
OCT 19 1899

Mr. Buck

to the Secretary of State.

Subject:

Pacific cable under American auspices — confirming telegram.

No. 353. LEGATION OF THE UNITED STATES,

Tokyo, Japan, September 18, 1899

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to append on the overleaf reading of your cipher telegram dated the 7th instant, to the effect that it would be agreeable to the United States if the Pacific Cable Company of New York were authorized to establish cable communiaation between the United States and Japan, and directing me to ascertain the attitude of the Japanese Government towards a distinctively American cable.

I today had an interview with the Minister for Foreign Affairs, who appears to be well disposed to the proposal embodied in the telegram herewith confirmed. He said that he would refer the matter to the Minister for Communications, and then to the full Cabinet, for their consideration. I will immediately communicate to you the results, as soon as known.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

Reading of telegram received.

"Washington, September 7, 1899.

"Buck, Minister, Tokyo.

"Our present and prospective interests in the Philippine "Islands and Guam joined to the commercial benefits to be de- "rived from a direct telegraphic union of the Japanese Empire "and the United States, point (strongly) to the desirability of "creating such communication under all the circumstances of "the case American auspices. If you can discreetly ascertain "as there Japanese Government is well disposed toward a dis- "tinctively American cable you may represent to the Japanese "Government that it will be agreeable to the United States if "the Pacific Cable Company of New York be authorized to es- "tablish cable communication between the United States and "Japan.

"Hay."

DIPLOMATIC,
OCT 16 1899
BUREAU.

No. 44.

LEGATION OF THE UNITED STATES,

Tokyo, Japan, September 18, 1899.

INDEX BUREAU
REC'D.
14 OCT '99
DEPT. OF STATE

2D ASSISTANT SECRETARY.
Ack by number + file.
OCT 14 1899

Mr. Buck

to the Secretary of State.

Subject:

"Anthony Pollok Memorial Prize".

No. ~~X~~.

LEGATION OF THE UNITED STATES,

Tokyo, Japan, September 18, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to acknowledge the receipt of your unnumbered instruction of date of the 11th ultimo, with circular Notification concerning the prize of one hundred thousand francs offered by the heirs of Anthony Pollok, to be known as the "Anthony Pollok Memorial Prize", to be awarded at the Universal Exposition to be held at Paris in 1900 to the inventor of the best apparatus for the saving of life in cases of marine disaster.

In obedience to your instruction I have communicated copies of the Notification to the Japanese Government, expressing the desire that the information therein contained be give wide publicity.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

DIPLOMATIC,
OCT 17 1899
BUREAU
TO ASSISTANT SECRETARY,
Copy of this may go to Mr. Barton,
Copy A.B.C. to Mr. Barton -
Ack. Continue to give the subject
careful care.
OCT 14 1899
INDEX BUREAU
REC'D.
14 OCT '99
DEPT. OF STATE

NO. 354.

LEGATION OF THE UNITED STATES,

Tokyo, Japan, September 18, 1899.

Mr. Buck,

to the Secretary of State.

Subject:

The new educational regulations for private schools.

No. 354.

Legation of the United States,
Tokyo, Japan, September 18, 1899.

Honorable John Hay,
Secretary of State,
Washington, D.C.-

Sir:

I have the honor to acknowledge receipt of your Instruction No. 241, of August 16th, enclosing correspondence with the Secretary of the American Board of Commissioners for Foreign Missions relating to the new regulations for private schools in Japan, and instructing me to examine the provisions of the regulations, to acquaint the Department with the facts, and to bring the subject to the attention of the Japanese Government, during the pendency of the measure, in such manner as might be proper.

In reply I have the honor to state that the proposed regulations have been carefully watched by me from the first, but at no time has the matter assumed such definite form that I felt justified in presenting it to the Department.

The new regulations were promulgated on the 4th ultimo, and forwarded (enclosure No. 3) with my No. 342 of August 11th. A comparison of the regulations actually issued with the draft originally proposed by the Department of Education shows that nearly, if not quite all, of the points objected to by Mr. Barton have been expunged from the regulations,-- a result due, at least in part, I believe, to the informal representations on the subject made by me to the Minister of Education.

One point, however, demands especial notice. The restriction relating to religious teaching and exercises in private schools, which was the cause of chief concern to the Mission Schools, while expunged from the regulations was embodied in a notification (see enclosure No. 4 with my No. 342) issued by the Minister of Education simultaneously with the regulations. This, with other facts of a similar nature, is generally taken to indicate that the Department of Education is, in this matter, "between two fires": first, the strongly conservative, nationalistic party whose influence called forth the regulations as originally drafted and the notification; and second, the liberal and progressive element whose united protest brought about the revision of the regulations.

On careful examination of the regulations I find no provision in them nor in the notification that, in my judgement, can be held to "encroach upon the vested rights and equities of foreigners in Japan", although in some respects they appear to be illiberal and unjust in their operation. The restriction regarding religious teaching and exercises does not apply to <u>all</u> private schools, as is pointed out by Mr. Adee in his reply to Mr. Barton, but only to such as seek Government recognition and privileges as part of the national system of education. Other schools may do and teach what they please. There is no restriction of the right of a foreigner to found schools or to engage in teaching if properly qualified. The question involved, therefore, is not so much one of <u>right</u> as one of <u>privilege</u>. Certain facilities are given schools that obtain Government recognition, chief of which are freedom in passing from one grade to another in the system without examination and the postponement of military conscription until the

<u>course</u>

course of study is finished. Missionary schools of the same grade have naturally sought to obtain the same privileges and a number have been recognized by the Government. But while the Mission Schools are pronouncedly Christian in tone the traditional policy of the Department of Education has been non-religious and has now, in the instruction of the Minister, been given more definite expression than before; so that the Mission Schools have been forced to choose between the Government privileges and their obligations to their students on the one hand, and their distinctive Christian character on the other.

The real question at issue seems to be whether the Department of Education in its endeavor to carry out its non-religious policy and actuated by the conservative party, has not gone to the opposite extreme of an anti-religious policy aimed primarily at Christian schools; and whether it is just that private schools, supported entirely by private funds, should be discriminated against solely on the ground of religious teaching.

I have as yet seen no opportunity for making a formal representation to the Japanese Government on the subject. I shall, however, continue to give it my careful attention and to be of such assistance as I can, informally, in co-operation with a committee composed of foreigners (chiefly Americans) and others representing the interests most concerned, in bring ing about a just settlement of this question; and I may add that the fact that the greater part of the leading papers of the country and, I am informed, of the Government itself, are strongly in favor of a more liberal policy, gives hope of such

a

a settlement in time.

I have the honor to be,

Sir,

Your obedient servant,



DIPLOMATIC,
OCT 23 1899.
BUREAU.

No. 355. LEGATION OF THE UNITED STATES,

Tokyo, Japan, September 20, 1899.

INDEX BUREAU
RECD.
20 OCT '99
DEPT. OF STATE.

2D ASSISTANT SECRETARY,
Ack by subject & file.
OCT 21 1899

Asha
Oct. 23

Mr. Buck

to the Secretary of State.

Subject:

Rumor of anti-alliance between Japan and China.

No. 355. LEGATION OF THE UNITED STATES,

Tokyo, Japan, September 20, 1899.

To the Honorable John Hay,

Secretary of State,

Washington..

Sir:

In consideration of statements that have appeared in the newspapers of the United States and of Europe in respect to a treaty alliance said to have been made between Japan and China through the efforts of a commission lately sent to this country from China, thinking that I should inform the Department so far as I can, what if anything has been done in that direction, I have the honor to state that some two months ago a commission arrived here from China purported to have come in the interest of better commercial relations between the two countries. It was at once charged here that the real purpose of the commission was to endeavor to form a defensive alliance which was immediately met by denial and by the publication of their instructions, which were only to work in the interest of commerce. So far as I was able to discover at the time, I had no reason to beleive that an alliance for other purposes was sought, and, until a few days ago, I entertained the beleif that none had been concluded or seriously contemplated by Japan.

In a conversation I had two days ago with the Minister of Foreign Affairs, on my alluding in a pleasant way to the reports appearing in the European and American press, while he as pleasantly spoke of the matter as a mere newspaper story

and

and stated that Japan had nothing whatever to gain by such an alliance and that there was no good reason why they should make such a treaty with China, and in effect conveying the idea that none had been made or was in contemplation by Japan, he did not state that such an alliance was not sought by China, or, in truth, that such a treaty was not under consideration by the Japanese Government.

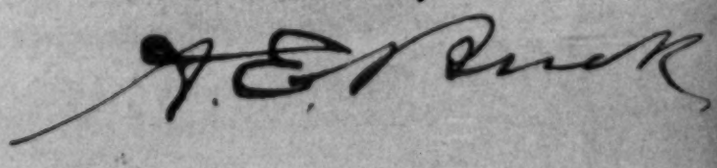
One of my colleagues of the Diplomatic Corps, who also has had a conversation with the Minister of Foreign Affairs upon the subject, states to me his beleif, notwithstanding the Minister's statement of the undesirability on the part of Japan that such an alliance should be formed and his quasi denial to him that one had been made; that negotiations to that end are now pending and that Japan really desires to enter into a defensive alliance with China. While I do not beleive that any treaty of alliance has as yet been consumated, considering the manner and expressions of the Minister, it is possible that my colleague is correct in his opinion and that secret negotiations may be now going on, though the commission have left the country.

Very soon I hope to be able to give more definite and reliable information concerning this subject.

I have the honor to be,

Sir,

Your obedient servant,



DIPLOMATIC,
OCT 20 1899
BUREAU.

No. 356. Ref. by subject

LEGATION OF THE UNITED STATES,

Tokyo, Japan, September 22, 1899.

INDEX BUREAU
REC'D.
20 OCT '99
DEPT. OF STATE

Acker Nov. 3/99 C

Mr. Buck

to the Secretary of State.

Subject:

Mr. Buck's return from his sojourn in the country.

No. 356. LEGATION OF THE UNITED STATES,

Tokyo, Japan, September 22, 1899.

To the honorable John Hay,

Secretary of States,

Washington.

Sir:

I have the honor to inform you that on the 16th instant I returned from Lake Chuzenji, where I have made my temporary residence since July 20th last, coming into Tokyo whenever the business of the Legation seemed to require.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

DIPLOMATIC,
OCT 23 1899
BUREAU

No. 357. LEGATION OF THE UNITED STATES,

Tokyo, Japan, September 22, 1899.

INDEX BUREAU
REC'D.
20 OCT '99
DEPT. OF STATE

Oct. 31/99

2D ASSISTANT SECRETARY,
OCT 21 1899

To inform Am. Book Co.
Copy to Librarian of Congress.
Clerk.

Mr. Buck

to the Secretary of State.

Subject:

Acknowledging Instruction No. 245, dated August 24th, as to the possibility of preventing unauthorized reprints etc. of American books in Japan.

No. 357. LEGATION OF THE UNITED STATES,

Tokyo, Japan, September 22, 1899.

See Amb & Lib Corr

To the Honorable John Hay,
Secretary of State,
Washington.

Sir:

I have the honor to acknowledge the receipt of your Instruction No.245, dated the 24th ultimo, enclosing copy of a letter from the American Book Company on the subject of the serious injury done their trade in this country by the reprinting, by Japanese publishers, of many of their publications—especially school books; and directing me to report whether the present circumstances make it more possible to prevent unauthorized reprints and counterfeits of American books in Japan than it was at the date (November 12th, 1896) of Mr. Olney's Instruction No.371 to Mr.Dun, endlosing copy of a similar correspondence with that company.

Referring to my Dispatches Nos.336 of July 20th and 351 of September 8th, of this year, setting forth my opinion that it is impossible for the United States, in view of its present laws and those now in force in Japan, to obtain copyright protection for its citizens' property in Japan without a special convention, I have the honor to report that it is not more possible now than at the time of Mr.Olney's instruction to prevent the reprint and counterfeit of American books in Japan.

I have the Honor to be,

Sir

Your obedient servant,

W. E. Buck

No. #

LEGATION OF THE UNITED STATES,

Tokyo, Japan, September 23, 1899.

DIPLOMATIC,
OCT 20 1899
BUREAU.

Mr. Buck

to the Secretary of State.

Subject:

Japan cannot send delegation to meeting of Association of Military Surgeons of the United States.

No. ✱. LEGATION OF THE UNITED STATES,

Tokyo, Japan, September 23, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

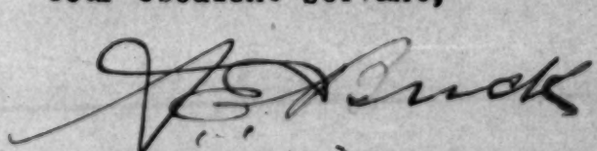
In answer to an invitation from the Association of Military Surgeons of the United States desiring that a delegation of medical officers of the Japanese army be present at the Association's meeting to be held at Kansas City on September 27—29 of this year, which I informally extended to the Japanese Government in obedience to your circular of date July 18th, acknowledged on the 29th ultimo, I have now received a note from the Minister for Foreign Affairs stating that the Minister for War, to whom he referred the matter, regrets that it will be impossible to send a delegation.

Viscount Aoki requests that this fact may be communicated to those concerned.

I have the honor to be,

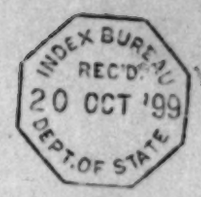
Sir,

Your obedient servant,



No. 358. LEGATION OF THE UNITED STATES,

Tokyo, Japan, September 27, 1899.



Mr. Buck

to the Secretary of State.

Subject:

Confirming the Department's telegram re the provisional arrest of Kent—which has been made.

No. 358. LEGATION OF THE UNITED STATES,

Tokyo, Japan, September 27, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to confirm the Department's telegram received the 22nd instant, reading as follows:

"Washington, District of Columbia,

"September 21, 1899.

"Buck, Minister, Tokyo.

"Request provisional arrest pending arrival of formal "extradition papers of Alba M.Kent, charged with forgery and "larceny New York where warrant of arrest issued. Fugitive " in Yokohama, where his location is known to our consul.general.

"David J.Hill."

In compliance with my request made according to the above telegraphic instruction Kent has been taken into custody by the Japanese authorities.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

DSP

DEPARTMENT OF STATE
OCT 20 1899
BUREAU.

No. 359.

LEGATION OF THE UNITED STATES,

Tokyo, Japan, September 27, 1899.

Oct. 21
Oct. 21
Hakodate
1 enc.
Jno. J. W. Jenks,
U.S. Industrial Commission,
Oct. 2 1899

Mr. Buck

to the Secretary of State.

Subject:

Forwarding report on Japanese corporation laws.

No. 359.

LEGATION OF THE UNITED STATES,

Tokyo, Japan, September 27, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to acknowledge the receipt of your unnumbered instruction dated July 22nd last, directing me to procure and forward copies of the corporation laws of Japan so far as they concern certain topics therein specified, which are desired by the Industrial Commission appointed by Act of Congress approved June 18th, 1898.

In obedience to that instruction I enclose herewith a report prepared by Huntington Wilson, 2nd Secretary of this legation, which is intended to serve as a syllabus of the legislation in question. The laws especially concerning the topics under consideration are transcribed in the report, and copies of the laws in full are sent therewith that the context may be consulted. Hoping it may answer the purpose of the Commission,

I have the honor to be,

Sir,

Your obedient servant,

Enclosure:- Report as above.

A. E. Buck

File

UNITED STATES LEGATION,
TOKIO.

No. 360. October 3, 1899.



Mr. Buck

to the Secretary of State.

Subject:

Navy Department's decision to retain the storage premises in Yokohama.

UNITED STATES LEGATION,
TOKIO.

No.360. October 3, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to acknowledge the receipt of your Instruction No.247 of August 26th, enclosing copies of correspondence touching the Navy Department's decision not to surrender its lease to the storage premises in Yokohama, and confirming the Department's telegram to me on the same subject.

I have the honor to be,

Sir,

Your obedient servant,

Alex Pruck

DIPLOMATIC UNITED STATES LEGATION, TOKIO.

OCT 27 1899

BUREAU.

INDEX BUREAU REC'D. 27 OCT '99 DEPT. OF STATE

8/4 to War

No. 361. October 3, 1899.

2D ASSISTANT SECRETARY, to War Dept. inform Mr. Cutler. OCT 27 1899

Mr. Buck

to the Secretary of State.

Subject:

The kind treatment of American soldiers by the Japanese.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 361. October 3, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to acknowledge the receipt of your Instruction No.248 dated August 31st, on the subject of the good conduct of our soldiers passing through here on their way home and of the kindness of the Japanese to them.

The assertions contained in Mr.Cutter's letter and the clipping from the San Francisco Chronicle, copies of which accompany your instruction, to the effect that the Japanese Government gave the soldiers free transportation to Tokyo, issued a proclamation, etc. are mistaken. Undoubtedly the soldiers were very kindly treated, and a large number of Japanese students who could speak English offered their services as interpreters. The courtesies extended, however, were all unofficial. Hence I think there is not sufficient ground for my addressing a note to the Foreign Office on this subject.

Referring to the closing paragraph of your instruction, I regret that No.333 was omitted, by a clerical error, in the numbering of my dispatches, none being sent under that number.

I have the honor to be,

Sir,

Your obedient servant,

W. W. Rockhill

UNITED STATES LEGATION,
TOKIO.

No. 362. October 3, 1899.

INDEX BUREAU
REC'D.
27 OCT '99
DEPT. OF STATE

DIPLOMATIC,
OCT 27 1899
BUREAU

RECEIVED.
OCT
27
1899
BUR. ACCOUNTS. DEP. OF STATE.

Mr. Buck

to the Secretary of State.

Subject:

The expenditure of $800. on repairs to the legation premises .

UNITED STATES LEGATION,
TOKIO.

No. 362. October 3, 1899.

INDEX BUREAU
REC'D.
27 OCT '99
DEPT. OF STATE

DIPLOMATIC,
OCT 27 1899
BUREAU

RECEIVED.
OCT
27
1899
BUR. ACCOUNTS. DEP. OF STATE.

Mr. Buck

to the Secretary of State.

Subject:

The expenditure of $800. on repairs to the legation premises .

UNITED STATES LEGATION,
TOKIO.

No. 362. October 3, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to acknowledge the receipt of your Instruction No.249, of date the 5th ultimo, authorizing the expenditure of $800. on repairs to the legation premises asked for in my No.332 of July 17th last.

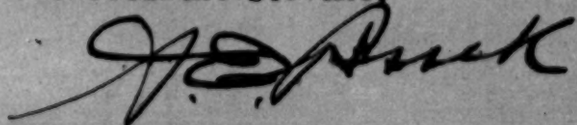
In compliance with your instruction I will expend the sum of $600. upon repairs to the building proper, under the appropriation "Repairs to Legation and Consular premises", and the sum of $200. for carpets and other furnishings, under the contingent appropriation, rendering for each a separate account with vouchers.(or so much of the amount as necessary).

I am very glad it has been found possible to authorize these much needed expenditures.

I have the honor to be,

Sir,

Your obedient servant,



T.M.

DIPLOMATIC,
OCT 27 1899
BUREAU.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 363.

October 4, 1899.

INDEX BUREAU
REC'D.
27 OCT '99
DEPT. OF STATE

Mr. Buck

to the Secretary of State.

Subject:

Mr. Herod departs for China on leave of absence.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 363.

October 4,1899.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to inform you that Mr. Joseph R. Herod, Secretary of this Legation, availing himself of the leave of absence granted him by the Department on August 23rd and afterwards approved by me, will leave his post for China to-day.

I have the honor to be,

Sir,

Your obedient servant,

E. Buck

UNITED STATES LEGATION,
TOKYO, JAPAN.

DIPLOMATIC,
OCT 27 1899
BUREAU.

INDEX BUREAU
REC'D.
27 OCT '99
DEPT. OF STATE

October 4, 1899.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to inform you that, availing myself of the leave of absence granted me by the Department on August 23rd and subsequently approved by the Minister, I shall leave for China to-day.

I have the honor to be,

Sir,

Your obedient servant,

Joseph R. Stevens

UNITED STATES LEGATION,
TOKIO.

DIPLOMATIC,
NOV 3 1899
BUREAU.

No. 364. October 4, 1899.

Ans Nov 6/99 C

INDEX BUREAU
REC'D.
27 OCT '99
DEPT. OF STATE

Closed Feb 9, 1901

See despatch No. 365

Mr. Buck

to the Secretary of State.

Subject:

Question of the infringement of the rights of holders of perpetual leases in the settlements.

UNITED STATES LEGATION,
TOKIO.

No. 364. October 4, 1899.

To the Honorable John Hay,
Secretary of State,
Washington.

Sir:

I have the honor to enclose herewith a copy of a note addressed by me to the Japanese Minister of Foreign Affairs concerning the registration of transfers by assignment of titles to property held under perpetual leases in the foreign settlements of the country.

It seems to me that the requirment of payment, as a revenue to the Government, of 2½ per cent of the value of any property held under a perpetual lease, confirmed by the treaty, is inadmissable,—that such a burden placed upon the property should not be borne by the assignee, who should stand in the same position in respect to such property, in all respects, as the original holder.

That a title to property under a perpetual lease should be registered as a superficies, thereby restricting the uses of the property, and perhaps the duration of its use, seems to me clearly inadmissable, as it certainly would change the conditions contained in the original lease.

Though I may possibly be in error in my position in respect to the registration tax of 2½ per cent of the value of the property, since there is no law compelling an assignee to register, I am confident that I am correct in my opinion as to the registration of property as a perpetual superficies' being in violation of treaty stipulations in respect of such property

property.

Awaiting notification of the decision of the Japanese Government in reply to my note, I have the honor to ask instructions upon the questions involved, that I may make no mistake should I insist upon the Japanese Government's recognizing the correctness of the position I have already taken.

I have the honor to be,

Sir,

Your obedient servant,

W. S. Buck

Enclosure:

Copy of Mr. Buck's note to Viscount Aoki, of date September 30th, 1899, as above.

Enclosure with Mr. Buck's No. 364 dated October 4th, 1899.

(Copy)

No. 164. LEGATION OF THE UNITED STATES,

Tokyo, September 30th, 1899.

His Excellency

Viscount Aoki Siuzo,

His Imperial Japanese Majesty's

Minister for Foreign Affairs.

Sir:

Referring to the brief conversations we have had recently in respect of the registration tax of 2½ per cent upon the value of property held by foreigners in the respective foreign settlements in Japan under perpetual leases by the Government, which, as I am informed, is required by the registering officers to be paid in registering any transfer or assignment of such leases; and also in respect of such registration of such perpetual leases being required to be made as perpetual superficies, I have thought it best to express to Your Excellency in writing, in short, some views touching these matters now entertained by me.

By the stipulations made in Article XVII of the treaty between the United States and Japan in respect of the several foreign settlements whereby such settlements are incorporated with the respective Japanese communes, it appears that existing leases in perpetuity in foreign settlements must be confirmed and that any new conditions whatever imposed by the Government are in contravention of the rights of the holders of real property under such leases. If I correctly understand the full import of the foregoing stipulations the 2½

per

per cent ($\frac{0025}{1000}$) of the value of the property so held, if imposed in registering a transfer of title, is a tax upon the property not contemplated and, as it would seem, is inadmissable. The imposition of such a tax by so much reduces, in effect, the value of the property and changes the original conditions of the lease itself, which stipulates a certain sum to be paid annually to the Government,—an annual tax upon the land, and the only tax, as it appears to me, (except certain municipal taxes provided for in the leases themselves and in the agreements entered into between the Government and the representatives of the treaty powers) that, under the provisions of the treaty, can rightfully be levied upon it by the Government. It seems that the leaseholder fully complies with the terms of the contract of lease made between the Japane se Government and himself when he annually pays his stipulated rent; and in registering a transfer or assignment of a perpetual lease such additional sum to be paid to the Government by the assignee on the value of the property so transferred, though called a registration tax is an additional tax upon the property for revenue,—which, however, would not be the case if a fixed registration fee only was required, without regard to value, upon all transfers of property alike in compensation for the work done in registering, in which no additional income to the government cfrom the property was to be derived.

I may add that while the forms of the deeds of title giving leases of perpetuity in the foreign settlements vary in their wording, in some non essential particulars, the title in all cases are granted by the Government not only to the original holders, but, in terms, to their heirs and assignes

as

as well, and, as I conceive, no tax should be imposed by the Government upon the heirs or assignes of the original lease in addition to that imposed upon the original lessee. It may be claimed that the registration of a transfer of an assignment of title to an assignee is not made obligatory by law and is to be registered or not at the option of the assignee; but to protect his title against a third party (who through fraud by the original holder of the property might acquire a second assignment of title which would be good if first registered) he must have his assignment registered for his protection and is thereupon compelled to pay 2½ per cent of the value of the property not contemplated in making the original grant of the title, which was made, as already stated, not only to the original holder but to his heirs or assignes,—thus, in my view, imposing in effect an additional condition upon the title confirmed under the treaty.

The registration of such perpetual leases at the Saibansho by which, if I am correctly informed, such leases are to be registered as perpetual superficies, will also, in my opinion, change the conditions of the original contracts of lease, inasmuchas a superficies, if I correctly understand the meaning of that term, restricts the holders of such a lease to uses of the land in certain respects and in some contingies, though declared perpetual, will restrict its duration also, and consequently impairs the value of the property. By the terms set out in the original perpetual leases the leaseholders have the perpetual use of the lands for all purposes whatever and for all time, provided they keep up their annual payments as stipulated in the original contracts of lease.

Knowing

Knowing that Your Excellency's Government does not intend or desire to put any additional burden upon citizens of the United States holding property in the foreign settlements under their perpetual leases not warranted by the treaty between the two countries, I have the honor to submit to Your Excellency the foregoing statement for such consideration as the merits of the questions involved will warrant.

I avail etc., etc.

(Signed) A.B.Buck.

UNITED STATES LEGATION,
TOKIO.

No. 365. October 6, 1899.



Ans. Nov. 6 99

Mr. Buck

to the Secretary of State.

Subject:

Registration taxes on transfers of land, ect.

UNITED STATES LEGATION,
TOKIO.

No.365. October 6, 1899.

To the Honorable John Hay,
Secretary of State,
Washington.

Sir:

Referring to my Dispatch No.364 of the 4th instant, concerning the Registration tax of 2½ per cent of the value of property held in the foreign settlements, under perpetual leases, required to be paid on registering transfers of such leases, I have the honor to call attention to the fact that the laws of Japan in respect to real property held under perpetual lease or otherwise are peculiar, especially in this:—that land and buildings upon the land are regarded as separate and distinct property and that a sale or transfer of lease of land does not include structures upon it as a matter of course, but may be sold or transferred apart from the structures and the structures likewise apart from the land.

My note to the Minister of Foreign Affairs, it will be observed, makes no reference to the registration tax upon the value of the buildings that may have been erected by the lessees, but only upon the value of the lands for the use of which perpetual leases were granted by the Government. That, under the general law applying as well to Japanese subjects as to foreigners, I could rightfully claim exemption from such tax upon the value of the buildings, I had so much doubt that I omitted to do so, though I understand that some of the representatives here of other countries make that contention as well as for the exemption of the tax upon transfers of perpetual leases of the lands.

Thinking

Thinking it proper to make the above explanatory statements, to avoid any possible misunderstanding as to the extent of the claim of exemption from the registration tax presented by me to the Japanese Government,

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

UNITED STATES LEGATION,
TOKIO.

DIPLOMATIC
NOV 7 1899
BUREAU.

No. 366. October 9, 1899.

INDEX BUREAU
REC'D.
7 NOV 99
DEPT. OF STATE

2D ASSISTANT SECRETARY,
Ack, regretting disaster and approving course proposed.
NOV 7 1899

Rec'd. Nov. 10

Mr. Buck

to the Secretary of State.

Subject:

Damage done the legation premises by a typhoon.

UNITED STATES LEGATION,
TOKIO.

No. 366. October 9, 1899.

To the Honorable John Hay,
Secretary of State,
Washington.

Sir:

I have the honor to report that on the 7th instant Tokyo was visited by a very severe typhoon, which caused considerable damage to the legation premises, destroying much of the old fencing, uprooting many trees, and damaging windows, blinds, and roofs.

By drawing upon the allowances granted by your Instruction No. 249 of the 5th ultimo, together with what of the contingent fund I can apply to the purpose, I hope to be able to repair this damage, replacing fences, replanting trees, and so on, as well as to make the repairs for which the recent allowance was asked.

I have the honor to be,
Sir,
Your obedient servant,

A. E. Buck

DIPLOMATIC,

UNITED STATES LEGATION,
TOKIO. NOV 7 1899

BUREAU.

No. 367. October 13, 1899.

INDEX BUREAU REC'D 7 NOV '99 DEPT. OF STATE

2D ASSISTANT SECRETARY,
Ack & file.
[This correspondence may go in For. Rel. 1899.]
NOV 7 1899

Ackd Nov. 10

Mr. Buck

to the Secretary of State.

Subject:

Instructions issued to prevent unnecessary arrests on board of American ships in Japanese ports.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No.367. October 13, 1899.

To the Honorable John Hay,
Secretary of State,
Washington.

Sir:

Referring to my Dispatch No.343 of August 11th, in which I dwelt upon the necessity of instructions' being issued by the Japanese Government to prevent their police officers from making unnecessary and vexatious arrests, like that in the case of the "China" therein cited, on board American ships in Japanese ports, and to the Department's Instruction No.250 of the 7th ultimo in reply, I have the honor to state that the Government, as the Minister for Foreign Affairs informs me, has issued general instructions to prevent the recurrence of such unnecessary arrests.

I have the honor to be,
Sir,
Your obedient servant,

W. O. Buck

DIPLOMATIC,
NOV 7 1899
BUREAU.

UNITED STATES LEGATION,
TOKIO.

No. 368.

October 13, 1899.

INDEX BUREAU
REC'D.
7 NOV '99
DEPT. OF STATE

2D ASSISTANT SECRETARY,
Ack & file.
aab
NOV 7 1899

Mr. Buck

to the Secretary of State.

Subject:

The political situation with reference to the next diet.

UNITED STATES LEGATION,
TOKIO.

No. 368. October 13, 1899.

To the Honorable John Hay,
Secretary of State,
Washington.

Sir:

I have the honot to inform you that the Japanese Diet has been convoked by Imperial Rescript for the 20th proximo.

There is not much of importance to report about the political situation. The prefectural elections ended on the 9th instant, resulting in Liberal gains, so far as one can judge before the complete returns are in. Thus the Liberals, most prominent among whom at present is Mr.Hoshi, formerly Minister in Washington, seem certain of a plurality in the coming diet. Their continued support, together with that of the Imperialists and a quota of the independent members, will, it is supposed, give to the Government a majority. The agreement by which the Liberals support the Government may, however, give way, unless, as a quid pro quo for such support, some of them are admitted to the cabinet. At present such a readjustment seems more likely than a sweeping change. However, Japanese politics are so kaleidoscopic that it is unsafe to predict.

I have the honor to be,

Sir,

Your obedient servant,

Alex Buck

DIPLOMATIC,
NOV 13 1899
BUREAU

No.369. UNITED STATES LEGATION, TOKYO, JAPAN. October 19, 1899.

INDEX BUREAU
REC'D.
13 NOV '99
DEPT. OF STATE

2D ASSISTANT SECRETARY,
To War Dept.
So ack.
NOV 13 1899

Ackd To War Nov. 14
Ackd again Nov. 28

Mr. Buck

to the Secretary of State.

Subject:

Forwarding descriptions of three Japanese steamers offered for transport service.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 369. October 19, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to forward herewith enclosed the descriptions of three Japanese steamers which the Tanimichi Steamship Agents offer to the United States Government for transport service. These papers reached me through our Consul at Kobe, who suggests that they be forwarded to the Department in compliance with the desire of the company.

I have the honor to be,

Sir,

Your obedient servant,

Enclosure:

Descriptions of three steamers, as above.

DIPLOMATIC,
UNITED STATES LEGATION,
TOKIO NOV 13 1899
BUREAU.

No. 370. October 20, 1899.

INDEX BUREAU
REC'D.
13 NOV '99
DEPT. OF STATE

To Treasury
Nr. 14

Mr. Buck

to the Secretary of State.

Subject:

Forwarding Quarantine Law and Regulations.

UNITED STATES LEGATION,
TOKIO.

No. 370. October 20, 1899.

To the Honorable John Hay,
Secretary of State,
Washington.

Sir:

I have the honor to enclose herewith three copies each of the Port Quarantine Law of the Imperial Government of Japan, and of the Regulations for the Enforcement of the Law of Port Quarantine, received today from the Foreign Office.

I have the honor to be,
Sir,
Your obedient servant,

A. E. Buck

Enclosures:

1. Quarantine Law, in triplicate.

2. Regulations for the Enforcement of the above, in triplicate.

File

UNITED STATES LEGATION,
TOKIO.

No. 377



October 30, 1899.

Mr. Buck,

to the Secretary of State.

Subject:

Confirming telegraphic instruction of October 27th, relating to the proposed monopoly of manufactured tobacco by the Japanese Government.

UNITED STATES LEGATION,
TOKIO.

No. 371.

October 30, 1899.

Honorable John Hay

Secretary of State,

Washington, D.C.-

Sir:

I have the honor to append on the overleaf reading of a telegram received on the 28th instant relating to the reported assumption by the Japanese Government of a monopoly of the manufacture of tobacco, and its relation to the interests of the American Tobacco Company.

I have addressed a note to the Minister of Foreign Affairs of the Japanese Government to-day, conveying to him the substance of the instruction, and will present it in person at once.

I have the honor to be,

Sir,

Your obedient servant,

W. W. Rock

Reading of telegram of October 27, 1899.

Washington October 27,1899.

BUCK, American Minister, Tokyo.

"American Tobacco Company, a corporation of this country,
"was about completing arrangement with some Japanese tobacco
"manufacturers for consolidation of Japanese (?) and Foreign-
"ers (?) in Japan into Japanese corporation and investment of
"several million dollars in proposed company by American com-
"pany, when information that Japanese Ministry contemplates
"Government monopoly of tobacco manufacture arrested plans
"because of fear of loss of investment thereby. Represent to
"Foreign Minister this situation and importance and the magni-
"tude of proposed investment, the stability of which must
"largely depend on attitude Japanese Government and request
"definite assurances as to whether that Government intends
"taking monopoly of tobacco manufacture and further assurance
"that if such policy shall be adopted Japanese Government wil
"at least refund American investment, which is based on good-
"will as well as tangible property. Important to get quick
"and definite answer as proposed investment may wholly fail
"unless the situation can be fully and speedily understood.
"You are at liberty to communicate (?) this message to Forei
"Minister. Answer fully.

HAY.

UNITED STATES LEGATION,
TOKIO.

DIPLOMATIC,
DEC 4 1899
BUREAU.

NO. 372.

INDEX BUREAU
REC'D.
DEC 99
DEPT. OF STATE.

November 6, 1899.

Mr. Buck,

to the Secretary of State.

Subject:

Confirming telegram of October 30 from Department in re good offices in favor of American builders.

UNITED STATES LEGATION,
TOKIO.

No. 372.

November 6, 1899.

Honorable John Hay,

Secretary of State,

Washington, D.C.-

Sir:

I have the honor to confirm the Departments telegraphic instruction of October 30th, reading as follows:-

" Buck, Tokio.

" Use good offices in favor of American builders in

" case Japanese Government build new war vessels.

" HAY "

I have the honor to be,

Sir,

Your obedient servant,

W. W. Buck

DEC 7 1899

UNITED STATES LEGATION,
TOKIO.

SOLICITOR'S OFFICE
BUREAU
DEC 7 1899

No. 373.

November 7, 1899.

INDEX BUREAU
REC'D.
2 DEC '99
DEPT. OF STATE

Sykes
Do C. D. Wright
Do Dec. 8

See 2662 Dec 8/99
2673
to Japan

Mr. Buck

to the Secretary of State.

Subject:

Educational trust desired to be established in Japan by the American Baptist Missionary Union.

UNITED STATES LEGATION,
TOKIO.

No. 373. November 7, 1899.

To the Honorable John Hay,
Secretary of State,
Washington.

Sir:

I have the honor to enclose herewith a letter from Rev. C.H.D.Fisher, an American citizen, representing the American Baptist Missionary Union in Japan, as also a copy of the articles of incorporation of an educational trust sought to be established by him, who asks my advice in respect of proceedings to enable the Missionary Union, through him, he having power of attorney to act, to organize such trust in the manner prescribed by the Civil Code of Japan.

It appears from his letter that an application for the establishment of the trust for the purposes stated in the articles of incorporation, has been denied sanction by the Department of Education, the province of which it seems to be to determine and act upon such matters, on the ground that the Civil Code does not recognize any foreign corporation or person to establish such trust— or any trust other than those referred to therein, which under section 36 does not include foreign juridical persons or corporations of the character designated in Mr. Fisher's articles of incorporation.

I find no stipulation in the treaty with Japan upon which the necessary official recognition of such a trust, as a matter of right, can be claimed, and, if any such recognition should be sought, the request must be made only on the ground of comity and reciprocity.

While

While Mr. Fisher in his communication asks my advice only, I find in conversations with him that he desires that I make official representations to the Japanese Government in the direction of his suggestions, to wit:—that I claim the official recognition of the American Baptist Missionary Union, in so far as its right to establish the trust, as a matter of comity, if not of right.

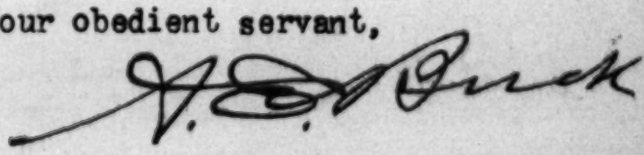
In this connection I deem it proper to add that it is represented to me that, unless such educational trusts are recognized and allowed to be established by foreign boards, it will cause a withholding of funds contributed by the various mission societies in the United States for educational purposes in Japan, which societies will not regard it as wise so to place their funds for such purposes as to preclude any legal control by them through their agents.

Being in doubt, in respect of what advice to give, and not feeling authorized, without instructions, to take any official action in the premises, I have the honor to submit the matter for such direction as the Department may give.

I have the honor to be,

Sir,

Your obedient servant,



Enclosures:

No.I. Copy of Mr.Fisher's letter.

No.2. Copy of articles of incorporation.

Honorable A. E. Buck,

Envoy Extraordinary and Minister Plenipotentiary

of the United States, Tokyo.

Sir:--

The American Baptist Missionary Union is a Corporation of the United States having its existence under the laws of Massachusetts. I am Treasurer of the Missionary Union in Japan. Being instructed by the head office in Boston, and holding power for the purpose, I prepared an "act of endowment" (Section 39. Civil Code) for founding a Japanese trust corporation called the Tokyo Chugakuin and Messrs. ...., Japanese subjects, were appointed to act as trustees to organize the trust according to the provisions of the Civil Code. The application was, however, refused, the reason given being that the Japanese Ministry of Education will not sanction any act of endowment made by such a Foreign body whether the existence of the Missionary Union as a United States Corporation is duly proved or not. Their argument seems to be based on the ground that Article 36 of the Civil Code does not recognize any foreign corporation other than those therein referred to. However the true light in which the matter is to be examined is from the point of the general principles of private international law. All the laws of civilized states recognize the existence of a foreign corporation as matter of comity according to the rules of that law. I am advised that Japanese jurisprudence recognizes such principles. The United States Laws and the Laws of Massachusetts will so recognize any Japanese Corporation. I consider that the Missionary Union is entitled, as a matter of reciprocity, to be accorded the same treatment by the Japanese

Law

Law and Government as a Japanese Corporation would receive at home. No act done by the representative of the Missionary Union duly authorized under the Laws of Massachusetts for the purpose, should be questioned by the Japanese authorities: it would seem that, if they do so question, there is a violation of treaty rights. The Missionary Union is most directly interested in the ultimate decision of the question, but it will have a most important bearing on the general situation. I am forced to apply to you for advice, because I am told that in the present case there is no way of taking legal procedure.

I have the honor to be, Sir,

Your obedient servant,

C. H. D. Fisher

Mission Treasurer of the

American Baptist Missionary

Union in Japan.

Yokohama Oct-30th/1899

Enclosure No 1 with Mr Bucks No 373 dated November 7th

COPY.

To [illegible] to whom these presents shall come:

Whereas;- The American Baptist Missionary Union, having its principal seat in the city of Boston, the state of Massachusetts, the United States of America, is desirous to incorporate a certain educational trust, called the Tokyo Chu Gakuin Zaidan, under the provisions of the Civil Code of Japan, I do hereby, representing the said Missionary Union, lay down as the Act of Endowment the following conditions:--

Article 1. The object of this Trust is the education of Japanese youth on Christian principles.

Article 11. The name of the Trust shall be Tokyo Chu Gakuin Zaidan.

Article 111. The address of the office of this Trust is No. 30, Shi Minato Cho, Tsukiji, Kyobashi Ku, Tokyo, Japan.

Article 1V.(a) The capital and income of this Trust must be employed for the purpose specified in Article 1. of this Act of Endowment, as said Article is interpreted by the Founder.

(b) The affairs of this Trust shall be managed by three Directors, the rules for the appointment and retirement of whom are stated in Article V of this Act of Endowment.

(c) When the business which is the object of this Trust is accomplished, or when its accomplishment is impossible, or when the Founder of this Trust for any reason so desires,

aw and Government as a Japanese Corporation would receive at home. o act done by the representative of the Missionary Union duly authorized under the Laws of Massachusetts for the purpose, should e questioned by the Japanese authorities: it would seem that, if hey do so question, there is a violation of treaty rights. The issionary Union is most directly interested in the ultimate decision of the question, but it will have a most important bearing on he general situation. I am forced to apply to you for advice, e-cause I am told that intthe present case there is no way of aking legal procedure.

I have the honor to be, Sir,

Your obedient servant,

C. H. D. Fisher

Mission Treasurer of the
American Baptist Missionary
Union in Japan.

Oct-30th/1899

desires, heshall have full power to dissolve said Trust.

(d) In case this Trust is dissolved for any cause whatsoever, the Founder shall name the liquidator.

(e) In case of dissolution of this Trust, the property of the Trust shall be converted into money and revert to the Founder.

(f) This Trust shall be provided with two Inspectors, who shall perform the following duties:--

1. Examine the state of the property of the Trust.
2. Inquire into the conduct of affairs by the Directors.
3. Report to the Founder any irregularity in the state of the property, or in the conduct of affairs by the Directors, which they may discover.

(g) The inspectors shall be appointed by the Founder and shall serve till their successors are appointed.

V.(a) The Directors of this Trust shall be appointed by the Founder.

(b) These Directors shall serve for one year, or until their successors are appointed.

(c) The conduct of the affairs of this Trust shall be decided by the vote of the majority of

of the Directors; but they must not act contrary to this Act of Endowment, as interpreted by the Founder.

(d) The first Directors shall be:- Sumikura Kado, No. 6 Misaki Cho, Itchome, Kanda Ku, Tokyo. Wtase Torajiro, No. 2 Tameike Machi, Akasaka ku, Tokyo. Sasaki Umeji, No. 42 Shi Sakai Cho, Kyobashi Ku, Tokyo.

Article VI. Neither this nor any other article, nor any section of any article, of this Act of Endowment, shall be changed, except by the Founder.

n witness whereof, I, C. H. D. Fisher, Treasurer of the Japan ission of the said Missionary Union, have hereunto set my hand nd seal in Tokyo, this 17th day of February, 1899.

(Signed) C. H. D. Fisher.

MISS. TREAS. A. B. M. U. JAPAN.

Tokyo, Japan, February 17, 1899.

efore me, the Secretary of the United States Legation in Japan, ersonally appeared C. H. D. Fisher, to me personally known to be he person whose name appears at the foot of the foregoing instruent, which he in my presence acknowledged to be his act and deed.

In Wittness Whereof I have hereunto set my hand and affixed e seal of the United States Legation in Japan the day and year last above written.

(Signed) Joseph R. Herod.

Secretary of Legation.

UNITED STATES LEGATION,
TOKIO.

File

DIPLOMATIC,
DEC 4 1899
BUREAU

NO. 374.

November 7, 1899.

INDEX BUREAU
REC'D.
2 DEC '99
DEPT. OF STATE

Mr. Buck,

to the Secretary of State.

Subject:

Copyright arrangement with Japan.

UNITED STATES LEGATION,
TOKIO.

No. 374.

November 7, 1899.

Honorable John Hay,

Secretary of State,

Washington, D.C.-

Sir:

I have the honor to acknowledge the receipt of Instruction No. 255 [of the 6th ultimo] directing me to ascertain whether an arrangement similar to that entered into between the United States and Germany in the matter of copyright can be made with Japan in default of such explicit declaration as is contemplated in Section 13 of the Act of Congress of 1891.

In this connection I beg to state that on receipt of the Department's telegraphic instruction of September 7, last, I immediately communicated to the Minister of Foreign Affairs in a formal note the circular instruction of July 25th on the subject, inviting consideration and such action as contemplated in the said circular.

Not having received a reply to my note above mentioned, in case no explicit declaration as contemplated in Section 13 can be obtained, I will ascertain as soon as practicable, as directed by the Department, whether such an arrangement in respect to copyright as made between the United States and Germany can be concluded with Japan.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

File

UNITED STATES LEGATION,
TOKIO.

No. 375.



November 7, 1899.

J. Hawk Buck
Dec. 4

Mr. Buck,

to the Secretary of State.

Subject:

Extradition of Alba M. Kent, Jr.

UNITED STATES LEGATION,
TOKIO.

NO. 375.

November 7, 1899.

Honorable John Hay,

Secretary of State,

Washington, D.C.-

Sir:

Referring to the Department's instruction No. 253, in reference to the arrest of Alba M. Kent, Jr., charged with the crime of forgery,-- receipt of which is hereby acknowledged -- I have the honor to report that Frank A. Johnson, commissioned by the President to receive and transport the fugitive Kent to the United States, arrived in Japan on the 2nd instant bringing with him the necessary legal evidence for the extradition of the prisoner now held in arrest by the Japanese authorities.

As directed by the Department I immediately made a formal requisition to the Minister of Foreign Affairs for the delivery of the said Kent to Mr. Johnson, and I am now given to understand by His Excellency that the preliminary steps will be hastened in order that he may be delivered in time to return to the United States by the next outgoing steamer, to leave on the 15th instant.

I have the honor to be,

Sir,

Your obedient servant,

A. O. Buck

DIPLOMATIC
UNITED STATES LEGATION,
TOKIO. 1899
DEC
BUREAU.

INDEX BUREAU
REC'D.
7 DEC 1899
DEPT. OF STATE

2D ASSISTANT SECRETARY,
Substance [quoting conclusion] to the complainant - to ack.
DEC 7 1899

No. 376. November 13, 1899.

Dec/13/99

Sept 1 & Lake

Mr. Buck

to the Secretary of State.

Subject:

The complaint of Mr. Lake of Nagasaki.

UNITED STATES LEGATION,
TOKIO.

No. 376. November 13, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to acknowledge the receipt of your Instruction No.252, dated the 4th ultimo., enclosing copy of a letter from Mr.Edward Lake on the subject of the late George W.Lake's complaint that he was dispossessed of certain property at Nagasaki.

Mr.Edward Lake, in the letter, states that the matter cannot be entertained in the Japanese courts, and I am directed to ascertain whether such is the case.

In compliance I now have the honor to quote from a dispatch received in response to my inquiry, from our consul at Nagasaki, who says,".....I am informed by the Clerk of the "Nagasaki District Court that no proceedings have been insti- "tuted, nor has any complaint been filed or offered for filing " by the heirs of George W.Lake, deceased, or by anyone in "their behalf for the recovery of the property in question "for damages or for any other reason, and that Japanese courts "do not state as to whether or not they will entertain a com- "plaint until after the same has been filed.....Edward Lake "has stated to me that he was informed by a Japanese attorney "that the courts in Japan could not entertain such a complaint "as he proposed making in regard to the property in question "unless the action of the United States Consul in the matter

"was

was
to be reviewed.....As far as I am able to learn, the state-
"ment of the Japanese attorney is all the foundation Mr.Lake
"had for making the statement that the matter cannot be enter-
"tained in the Japanese courts."

From the above it appears that the heirs of the late George W.Lake have not yet exhausted the ordinary means of redress for any wrongs which their estate may have suffered.

I have the honor to be,

Sir,

Your obedient servant,

A E Buck

DIPLOMATIC,

NOV 20 1899

BUREAU.

ASSISTANT SECRETARY NOV 20 1899 DEPARTMENT OF STATE

TELEGRAM RECEIVED IN CIPHER

From TOKIO,

November 19, 1899.

Recd. 11:33 a.m.

Secretary State,

Washington.

I am informed by Minister for Foreign affairs of Japan that it has not been decided whether Government of His Imperial Majesty will monopolize tobacco manufacture; that such monopoly being a great undertaking, involving considerable amount of expenditure, it is not considered probable that such enterprise will be carried out in the near future. Regrets are expressed that no definite information can be given in respect of an indemnity to the American company.

BUCK.

Nov 5, 1900 re request W. W. Fuller of The American Tobacco Co. to pay the cost of the telegram to D.C.

Nov. 22.

Copy.

Wilcox

Fuller & Wolcott

Affairs

...ered by ..... , 189 , ... M.

Girls

No. 377.

UNITED STATES LEGATION,
TOKYO, JAPAN.

November 23, 1899.



Copy to Dept. Dec 21/99

Copy to Treas Dept. 27/99

Copy to Hon. Clauds A. Swanson Dec 27/99

Mr. Buck

to the Secretary of State.

Asst Sec 27

Subject:

Monopoly of Tobacco Manufacture in Japan.

No. 377

UNITED STATES LEGATION,
TOKYO, JAPAN.

November 23,1899.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to enclose herewith the reading of my cipher telegram of the 18th instant upon the attitude of the Japanese Government upon the question of the establishment of a government monopoly of tobacco manufacture, ~~together with~~ a copy of a note from Viscount Aoki, Minister for Foreign Affairs, ~~upon which my telegram was based.~~

It will be observed that in Viscount Aoki's note no mention is made of the good will of companies which would be absorbed in case of the establishment of a government monopoly, but, on inquiry at the Foreign Office, I have been assured that the expression "capital to be claimed by them etc." is to be taken as including the good will as well as the actual money investment.

I have the honor to be,

Sir,

Your obedient servant,

E. E. Buck

Enclosures:

1 Mr. Buck's telegram of November 18,1899.

2 Viscount Aoki to Mr. Buck, November 17,1899.

Enclosure No. 1 with Mr. Buck's No. 377

Reading of telegram to the Department, Nov. 18, 1899.

Tokyo, November 18, 1899.

SECSTATE, Washington.

I am informed by the Minister of Foreign Affairs of Japan that it has not been decided whether the Government of His Imperial Majesty will monopolize tobacco manufacture; that such monopoly being a great undertaking involving considerable amount of expenditure it is not considered probable that such enterprise will be carried out in the near future. Regrets are expressed that no definite information can be given in respect of an indemnity to the American Company.

BUCK

Enclosure 2 with Mr. Buck's No. 377.

(Copy.)

Translation.

No. 35.

Department of Foreign Affairs,

Tokio, the 17th day, the 11th month,

the 32nd year of Meiji.

November 17, 1899.

His Excellency

A. E. Buck,

etc., etc., etc.

Monsieur le Ministre,

I have the honor to acknowledge the receipt of Your Excellency's note No. 187 of the 30th ultimo, relative to the rumour that the Imperial Government contemplate a Government monopoly of tobacco manufacture of which Your Excellency requests certain assurances under the telegraphic instruction from your Government.

I beg to say in reply that I am now informed by the Minister of Finance to whom the matter has been referred to the effect that owing to the shortness of time since the inauguration of the tobacco monopoly, there remain many works to be improved or extended, which are now in course of investigation, and whether the Government should take the monopoly of tobacco manufacture is one of the matters which have not yet been decided upon, and that consequently the Imperial Government regret that they are not prepared at present to give any definite answer to such questions as whether they will indemnify

indemnify the American Tobacco Company for capital to be claimed by them etc. I beg to add that the Government monopoly of tobacco manufacture being a great undertaking which involves considerable amount of expenditure, it is not considered probable that such an enterprise will in the near future be carried out.

I avail myself etc.

(Signed.) Viscount Aoki Shuzo,

Minister for Foreign Affairs.

No. 378

UNITED STATES LEGATION,
TOKYO, JAPAN.

DIPLOMATIC,
DEC 16 1899
BUREAU.

November 25, 1899.

INDEX BUREAU
REC'D.
16 DEC '99
DEPT. OF STATE

Mr. Buck

to the Secretary of State.

Subject:

Opening of the Imperial Japanese Diet.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 376.

November 23, 1899.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to inform you that the 14th Session of the Imperial Japanese Diet was opened yesterday-the 22nd instant-by the Emperor in person.

I have the honor to be,

Sir,

Your obedient servant,

Alvey A. Adee

DIPLOMATIC,
DEC 16 1899
BUREAU.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 4

Received by August

INDEX BUREAU
REC'D.
16 DEC '99
DEPT. OF STATE

November 23, 1899.

Acknd Dec 1 8/99 C

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to report that, on the 15th instant, I returned to my post, after a leave of absence passed in China.

I have the honor to be,

Sir,

Your obedient servant,

Joseph R. Stevens

DIPLOMATIC,
DEC 20 1899
BUREAU.

Ask file
908

No. 379

UNITED STATES LEGATION,
TOKYO, JAPAN.

November 25, 1899.

INDEX BUREAU
REC'D.
16 DEC '99
DEPT. OF STATE

Acknowledged
Henry T. Scott
informed Dec. 28/99 C

Mr. Buck

to the Secretary of State.

Subject:

War Vessels to be built by Japanese Government.

No. 379.

UNITED STATES LEGATION,
TOKYO, JAPAN.

November 23, 1899.

Honorable John Hay,

Secretary of State.

Washington.

Sir:-

Referring to telegraphic instructions of the 30th ultimo, confirmed by me in despatch No. 372 on the 6th instant, in respect to using my kind offices in favor of American builders in case the Japanese Government is to have new warships built, I have the honor to report that I am informed that, instead of quite a number of war vessels which the Japanese Government was supposed to be about to have built immediately, and for the building of which opportunity for competition was expected to be given, the plans of the Government have been changed and the building of such ships has been abandoned, except as to one torpedo supply ship and a very few small torpedo boats, contract for which has already been given to British shipbuilders, and as to which no opportunity has been given to American builders to compete.

From what I have been able to learn through inquiry by the Naval Attaché of the Legation, it seems that the contract was given to the British builders because of less cost in England than elsewhere and because the contract could be executed more quickly; also that no more warships are to be built by the Government in the near future, presumably for want of funds.

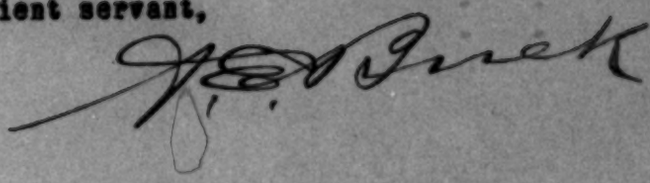
I

UNITED STATES LEGATION,
TOKYO, JAPAN.

I have the honor to be,

Sir,

Your obedient servant,



DIPLOMATIC,
DEC 16 1899
BUREAU.

No. 380.

UNITED STATES LEGATION,
TOKYO, JAPAN.

INDEX BUREAU
REC'D.
16 DEC '99
DEPT. OF STATE

November 23, 1899.

Ack by subject

Herod
Dec. 16/99
C

Mr. Buck

to the Secretary of State.

Subject:

Mr. Herod returns from leave of absence.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 380.

November 23, 1899.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to inform you that Mr. Joseph R. Herod, Secretary of this Legation, returning from a leave of absence passed in China, reached Tokyo on the 15th instant, and, on the same day, took up the duties of his post.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

UNITED STATES LEGATION,
TOKIO.

File

DIPLOMATIC,
DEC 16 1899
BUREAU.

INDEX BUREAU
REC'D.
16 DEC '99
DEPT. OF STATE

NO. #

November 24, 1899.

Mr. B uck

to the Secretary of State,

Subject:

Thanksgiving Day notification.

UNITED STATES LEGATION,
TOKIO.

#

November 24 , 1899.

Honorable John Hay,

Secretary of State,

Washington, D.C.-

Sir:

I have the honor to enclose herewith two copies of a notification in respect to the observance of Thanksgiving Day issued by me to the citizens of the United States in Japan.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

Enclosed:

Copies of notification as above.

THE PRESIDENT OF THE UNITED STATES, in pursuance of a custom established and observed by the people in every succeeding year for more than a generation past, having by Proclamation designated and set apart the last Thursday (the 30th) of the present month as a day of National Thanksgiving and Praise, when all the people,—those who may be at sea or in foreign lands, as well as those at home,—are recommended to assemble in their several places of worship to give thanks to Almighty God for all the blessings of the year and to pray that the Divine guidance may be continued in the years to come, I deem it proper to convey to the citizens of the United States in Japan this information and to invite their observance of that day in the manner recommended.

ALFRED E BUCK,

United States Minister.

United States Legation,

Tokyo, Japan, November 14, 1899.

UNITED STATES LEGATION,
TOKIO.

File

DIPLOMATIC,
DEC 16 1899
BUREAU.

No. 387.

INDEX BUREAU
REC'D.
16 DEC '99
DEPT. OF STATE

November 24, 1899.

Mr. Buck,

to the Secretary of State.

Subject:

Acknowledging receipt of Instruction No. 257.

UNITED STATES LEGATION,
TOKIO.

No. 387. November 24, 1899.

Honorable John Hay,

Secretary of State,

Washington, D. C.

Sir:

I have the honor to acknowledge the receipt of your instruction No. 257, directing me to express the United States Government's appreciation of the courteous aid tendered to the transport "Morgan City" and her crew in the several quarters mentioned in my despatch relating to that subject, and to state that the instruction has already been complied with.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

UNITED STATES LEGATION,
TOKYO, JAPAN.

DIPLOMATIC,
JAN 3 1900
BUREAU.

No. 382

INDEX BUREAU
RECD.
8 JAN 1900
DEPT. OF STATE

November 27, 1899.

Mr. Buck

to the Secretary of State.

Supject:

Death of Vice President Hobart. Mourning observed at Legation.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 382

November 27, 1899.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to report that, upon receiving authentic, though unofficial information of the death of Vice President Hobart, to-day, in a note to the Minister of Foreign Affairs, I have informed the Japanese Government of the sad event, and, following the precedent set by the instructions at the time of the death of Vice President Hendricks, I have directed that the flag be displayed at half staff, and that the members of the Legation assume the usual symbols of mourning for the period of thirty days. I have also issued instructions to our several consuls in Japan to display the flag at half staff and adopt the emblems of mourning in like manner for the same period.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

of State.
3 1900

UNITED STATES LEGATION,
TOKIO.

No. 383.

DIPLOMATIC,
JAN 3 1900
BUREAU.

November 27, 1899.

INDEX BUREAU
REC'D.
3 JAN 1900
DEPT. OF STATE

Mr. Buck

to the Secretary of State.

Subject:

Extradition of Alba M. Kent, Jr.

UNITED STATES LEGATION,
No. 383 TOKIO.

November 27,1899.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to inform you that Alba M. Kent,Jr., charged with forgery committed at Jamestown, New York, whose extradition was recently sought of the Japanese Government, was, on the 25th instant, handed over by the Japanese authorities to Frank A. Johnson,who came to Japan with the President's warrant authorizing him to take the prisoner into custody and take him to the United States for trial in the State of New York.

Kent, in charge of Mr. Johnson, sailed for San Francisco,via Honolulu, on the AMERICA MARU on the same day.

I have the honor to be,

Sir,

Your obedient servant,



TELEGRAM RECEIVED IN CIPHER.

DIPLOMATIC,
DEC 1 1899
BUREAU.

File

Ans. Nov. 30. C.E.

From Tokio, Nov. 30, 1899.

Received 7:55 A.M.

Confirmed Dec. 2

Secretary of State,

Washington,

Japanese Minister for Foreign Affairs desires me to obtain official information for His Majesty's Government giving particulars of the notes from my Government to European powers in respect of assurances that the United States commercial interests in China shall not be restricted in consequence of any condition by which territory may be subjected to their control and that I telegraph this request.

BUCK.

ed by

, 189 , M.

ry of State.
3 1900

384.

UNITED STATES LEGATION,
TOKIO.

DIPLOMATIC,
JAN 9 1900
BUREAU.

November 30, 1899.

INDEX BUREAU
REC'D.
3 JAN 1900
DEPT. OF STATE

2D ASSISTANT SECRETARY,
Ack and file.
JAN 9 1900

Mr. Buck

to the Secretary of State.

Ans
Jan. 13
C

Subject:

Japanese Government's desire to know America's position in regard to preservation of commercial rights in China.

UNITED STATES LEGATION,
TOKIO.

No. 384.

November 30,1899.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to confirm on the overleaf my telegraphic despatch of yesterday, the 29th instant, concerning the request of the Japanese Minister of Foreign Affairs to obtain for the Japanese Government the information indicated therein.

In an interview with the Minister, yesterday, he referred to the information that had come to him that the United States had addressed notes to Russia, Germany and France, and, perhaps, to some other European Powers, in respect to the protection of our commerce and navigation in China, in event of those Powers, or either of them, obtaining control of sections or any portion of that country, and that, considering the great interest of Japan in China, and the proximity of that country, and the community of interests of the United States and Japan, he expressed some regret that his Government had not received official communication of the particulars of the position assumed by the United States in the notes to those Powers.

The Minister having stated his desire that I telegraph his wishes, I thought it proper to comply with his request, though with some reluctance, because of the possibility that the matter might not be considered of sufficient importance for telegraphic communication.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

(Telegram.)

"Tokio, November 29,1899.

"Secstate, Washington.

"Japanese Minister of Foreign Affairs desire
"to obtain official information for His Majesty's Government giving
"particulars of the notes from my Government to European Powers
"in respect of assurances that the United States commercial interests
"in China shall not be restricted in consequence of any conditions
"by which territory may be subjected to their control and that
"I telegraph this request.

"BUCK."

No. 385.

UNITED STATES LEGATION,
TOKIO.

File

DIPLOMATIC,
JAN 3 1900
BUREAU.

December 5, 1899.

INDEX BUREAU
REC'D.
3 JAN 1900
DEPT. OF STATE

Consular Bureau.
JAN 3 1900

Enclosures filed in Consular Bureau

Mr. Buck

to the Secretary of State.

Subject:

Court Regulations for United States Consular Courts in Japan.

No. 385.

UNITED STATES LEGATION,
TOKIO.

December 5,1899.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

Complying with instruction No. 359,dated November 3,1899, I have the honor to enclose herewith "Regulations in force in the Consular Courts of the United States of America in Japan,1870", amended to meet such changes and additions as have been made subsequent to the date of publication and up to the date of operation of the treaty of November 22,1894, between the United States and Japan.

These regulations appeared originally as "Appendix IX" to a "Letter from the Secretary of State,addressed to Hon. Wm. Windom,Chairman Committee on Foreign Relations,relative to the exercise of judicial extraterritorial rights conferred upon the United States", which was published as Senate Miscellaneous Document No. 89,47th Congress,1st Session.

I also enclose a copy of Scidmore's "United States Courts in Japan."

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

Enclosures:

Two as above.

ask - file 386

No. 386.

UNITED STATES LEGATION,
TOKIO.

DIPLOMATIC,

JAN 24 1900

BUREAU.

December 11, 1899.

etary of State.
N 24 1900.

INDEX BUREAU
REC'D.
3 JAN 1900
DEPT. OF STATE

Acker
Jan. 26

Mr. Buck

to the Secretary of State.

Subject:

Establishment of a trans-Pacific cable.

No. 386.

UNITED STATES LEGATION,
TOKIO.

December 11, 1899.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

Referring to your telegraphic instruction of September 7th last, in respect to the desirability of establishing cable communication between the United States and Japan under American control, directing that, if I could discreetly ascertain that the Japanese Government was well disposed to a distinctively American cable, I might represent that it would be agreable to the United States should the Pacific Cable Company of New York be authorized to establish such communication between the two countries, I have the honor to state that, on learning the favorable attitude of the Japanese Government from the Minister of Foreign Affairs, upon his suggestion, I addressed a note to him upon the subject (copy enclosed), to which a reply has now been received (copy enclosed):

Before replying to my note, the Minister, in a personal interview, informed me of the conclusion of the Government, which was that the Cabinet had accepted and approved in principle the proposition submitted, which, as I have been unofficially informed, was prepared by the Director General of Telegraphs and by him, through the Minister of Communications, presented to the Cabinet.

No. 366 - p. 2.

UNITED STATES LEGATION,
TOKIO.

I have the honor to enclose herewith a copy the proposition which has been furnished me.

I have the honor to be,

Sir,

Your obedient servant,

E. E. Buck

Enclosures:-

1. Mr. Buck to Viscount Aoki, Sept. 19,1899. Copy.

2. Viscount Aoki to Mr. Buck, Dec. 8,1899. Copy.

3. Proposition approved by the Cabinet. Copy.

Enclosure / with Mr. Buck's No. 386.

(COPY.)

No. 180. Legation of the United States,

Tokyo, September 19, 1899.

His Excellency

Viscount Aoki Shuzo,

H. I. J. M's Minister for Foreign Affairs.

Sir:-

I have the honor to inform Your Excellency that I am in receipt of telegraphic instructions from my Government concerning the desirability of creating direct telegraphic union of the Japanese Empire with the United States under American auspices, and that I am authorized to communicate to Your Excellency the fact that it will be agreable to the United States if the Pacific Cable Company of New York be authorized to establish cable communication between the two countries.

In view of the interests involved, I entertain the hope that Your Excellency's Government may give consideration to the above suggestion, and that the Pacific Cable Company of New York may present such considerations in respect to commercial benefits to the Empire to be derived from the establishment of their line of cable as will justify favorable action of the Imperial Government.

I avail my self etc.

(Signed.) A. E. Buck.

Enclosure 2 with Mr. Buck's No. 386.
(COPY.)

Translation.

No. 39. Department of Foreign Affairs,

Tokio, the 8th day, the 12th month,

the 32nd year of Meiji.

(December 8, 1899.)

His Excellency

A. E. Buck,

etc., etc., etc.

Monsieur le Ministre,

I have the honor to acknowledge the receipt of Your Excellency's note of the 19th September, in which, under telegraphic instructions from your Government, you called the attention of the Imperial Government to the desirability of creating direct telegraphic union between our two countries, and expressed the hope that the Pacific Cable Company of New York might be authorized to establish such communication.

I beg to say in reply that the Imperial Government fully recognize the utility of establishing the proposed telegraphic cable, and they will be prepared, when the charter shall have been granted to the Company by the United States Government and all the necessary preparations for the project shall have also been completed, to open negotiations with the said Company and consider how far they may afford facilities to the enterprise.

I avail myself etc. (Signed) Viscount Aoki Shuzo.

Enclosure 3 with Mr. Buck's No. 386.

Translation.

Conditions to be proposed for the laying and working of a submarine telegraph cable between the United States and Japan.

1. The submarine telegraph cable to be laid from the coast of the United States of America to the coast of Japan shall be established in a proper and efficient working order within five years from and after the date of the concession granted the Pacific Cable Company of New York by the Japanese Government. If the Company shall fail to construct the said cable within the said period of five years the rights and privileges secured by the Company to construct and operate the cable shall be null and void.

2. The Japanese Government shall, from and after the efficient completion of the said cable, grant the Company an annual subsidy of Yen 150,000 during a term of twenty years.

Provided, however, that the said amount of Yen150,000 shall cover the charges for the Japanese Government telegrams to be forwarded over the said cable (Exclusive of cut payments).

3. The rate to be charged for private telegrams over the said cable owned and operated by the Company shall not exceed two Yen per word; and the rate per word for Japanese Government telegrams shall be half the amount collected from the general public for ordinary

ordinary telegrams.

4. During the said term of twenty years from and after the completion of the said cable, the Japanese Government may not authorise any undertakers to construct and lay a further submarine telegraph cable across the Pacific between the continents of America and Japan, with or without any intermediate station at any place or island in the Pacific.

The Japanese Government reserve, however, the right to grant a concession, if they should deem it important, to establish and work another submarine telegraph cable, to any undertakers who may, hereafter, project to link Japan with any of the American continents under conditions which the Government may judge just and reasonable. Provided, nevertheless, that in such case the Government shall first approach the Company to undertake the establishment of such cable under the same conditions as have been tendered by the undertakers of the Government. If the Company shall decline to accept the offer, the Government shall then be at liberty to grant the concession to the undertakers who may be willing to promote such undertaking.

[illegible]

Other conditions to be mutually determined and agreed upon.

DEPARTMENT OF STATE.

WASHINGTON.

January 20, 1900.

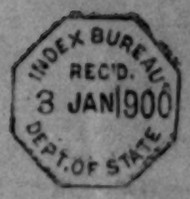
MEMORANDUM.

I submitted this despatch with its enclosures to the Secretary of the Navy to-day, so that he might be aware of all that had passed between the State Department and our Legation in Japan, and inquired whether he considered that there was anything incompatible in the instructions we had given Mr. Buck and the support which the Navy Department was giving to the bill now before Congress for the establishment of a Pacific cable by direct action of the United States Government. He said he saw nothing incompatible, and that he did not consider the bill before Congress an Administration measure, although he had assisted in framing it; the whole matter being in the hands of Congress.

No. 387.

UNITED STATES LEGATION,
TOKIO.

December 11, 1899.



Mr. Buck

to the Secretary of State.

Subject:

Report of Philippine Commission received.

UNITED STATES LEGATION,
TOKIO.

No. 387.

December 11, 1899.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to acknowledge the receipt of your unnumbered instruction dated November 7, 1899, together with two copies of the report of the commission appointed by the President to investigate affairs in the Philippine Islands enclosed therewith.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

No. 388.

UNITED STATES LEGATION,
TOKIO.
DIPLOMATIC,
JAN 17 1900
BUREAU.

December 18,1899.

Secretary of State.
JAN 16 1900

INDEX BUREAU
RECD.
13 JAN 1900
DEPT. OF STATE

Mr. Buck

to the Secretary of State.

Subject:

Japan and Russia in Korea.

UNITED STATES LEGATION,
TOKIO.

No. 388

December 16,1898.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

Thinking that a certain matter discussed in a conversation which I have had with the Japanese Minister of Foreign Affairs may be of interest, I have the honor to state that the Minister expressed a great desire in the interests of manufacture and trade of the United States and Japan, that American business men of capital should join with Japanese men of business in various enterprises in China and Korea. He thinks it would be very much to the advantage of enterprising men of both countries to do this, because the Japanese are more in touch with the people of those countries and understand them better than Americans. He is especially desirous that Americans join with bankers and business men of Japan now operating in Korea with insufficient capital to meet the demands of their business, and expressed the wish that I would try to interest some capitalists and men of affairs in the United States to enter into business relations with those Japanese in that country. In consideration of the amicable relations existing between the United States and Russia, he thinks, for that reason as well, that such joint undertakings should be conducted there, as they would tend to keep up friendly relations between all concerned.

In this connection, upon my referring to the reports appearing in the public press of the United States, Europe, and China of an impending conflict betwwen Russia and Japan, the Minister emphatically assured me that there was no foundation for such reports, and not the least probability of any difficulty in the near future between the two powers; that their relations were cordial; and that no differences were, in his opinion, likely to arise to cause trouble between them. I inferred from his suggestions, however, that the

UNITED STATES LEGATION,
TOKIO.

the desire for these joint undertakings of Americans and Japanese in Korea was caused largely by the belief that such combinations in business there would have a marked influence in preventing trouble for Japan with Russia in that country, on the ground that the United States would be supposed, in the event of difficulties arising between them in respect to Korea, to take a greater interest in preserving peaceful relations, and, in case a conflict in the future could not be prevented, that the United States might, to some extent at least, be involved and upon the side of Japan. However, this is only an inference gattered from the Minister's desire, strongly expressed, for the co-operation of Americans and Japanese in business in Korea, and from his expression in respect to the wholesome influence that such joint operations would exert. If I am correct in my opinion, it indicates some apprehension of strained relations, if not a conflict, between Japan and Russia in respect to affairs in Korea at some future time.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

UNITED STATES LEGATION,
TOKIO.

No. 389.

DIPLOMATIC,
JAN 13 1900
BUREAU.

December 19, 1899.

INDEX BUREAU
REC'D
13 JAN 1900
DEPT. OF STATE

2D ASSISTANT SECRETARY,
To Navy Dept. for its information
To War Dept also.
Jack JAN 13 1900

Rec'd Jan 16 C.

Ans again Jan. 22 C.

Mr. Buck

to the Secretary of State.

Subject:

Retention of present Naval Attaché.

No. 389.

UNITED STATES LEGATION,
TOKIO.

December 19, 1899.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

Referring to my despatch No. 233 of January 2nd last, in respect to the assignment of a Military Attaché to this Legation, in the place of Captain Edmund Rice who had been relieved some months before, I have the honor to state that now, in my opinion, the necessity of such an attaché at this post is somewhat relieved, for the reason that Lieutenant A. L. Key, the Naval Attaché here, under instructions of the Navy Department, in some measure discharges the duties of Military Attaché as well.

I take pleasure in statidg, in this connection, that Lieutenant Key, so far as I am able to judge, is very efficient in the discharge of his duties. He is in excellent standing at the Japanese Navy Department, and I trust will be continued at this at this post for some time.

Hoping that it may be thought proper to advise the Navy Department of the estimation in which Lieutenant Key is held here, and that, in my view, he should be retained in his present position for a full time of duty at least, if the exigencies of the service shoud permit,

I have the honor to be,

No. 859 - p. 2.

UNITED STATES LEGATION,
TOKIO.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

UNITED STATES LEGATION,
TOKIO.

DIPLOMATIC
JAN 20 1900
BUREAU

No. 390.

INDEX BUREAU
REC'D
20 JAN 1900
DEPT. OF STATE

December 21, 1899.

Mr. Buck,

to the Secretary of State.

Subject:

Draft of Law of Religions.

UNITED STATES LEGATION,
TOKIO.

No. 390.

December 21, 1899.

Honorable John Hay,
Secretary of State,
Washington, D.C.-

Sir:

I have the honor to enclose herewith duplicate copies of a translation of the draft of a law regulating religions that has been introduced by the Government in the present session of the Diet.

While the law may seem to be unnecessary and in some respects open to criticism, yet as it fixes the status of the Buddhists, who have recently been agitating for the public recognition of their religion as especially entitled to the guardianship of the State, and places all religions upon an equal footing, it seems to be meeting little opposition on the part of the Christians. I am informed by the Minister of Foreign Affairs that the proposed law is likely to pass with little amendment.

I have the honor to be,
Sir,
Your obedient servant,

Alvey A. Adee

Enclosure:
Translation, in duplicate, of the Law of Religions.

With Inc. Bucks No. 390.

BILL RELATING TO THE LAW OF RELIGIONS.

LAW OF RELIGIONS.

Chapter I.

GENERAL PROVISIONS.

Art. I.—No association or foundation having for its object the public propagation of religion or the performance of religious services, can become a juridical person unless in accordance with this Law.

Art. II.—The term *kyōkwai* (church) used in this Law shall be held to mean a juridical person, either association or foundation, which, not being a *tera* (Buddhist temple), has for its object the public propagation of religion or the performance of religious services.

Art. III.—The term *tera* (Buddhist temple) used in this Law shall be held to mean a foundation—being a juridical person—which possesses a *jiin* (temple) and has for its object the propagation of religious doctrines and the performance of religious rites.

The *jiin* is an edifice where a principal idol of Buddhism is installed, religious doctrines are preached, and religious rites are performed and priests reside.

Art. IV.—No association or foundation exercising a general control over the associations or foundations provided for in the two preceding Articles can become a *kyōkwai* or *tera*.

Art. V.—The term *kyōha* or *shūha* (sect) used in this Law shall be held to mean a religious body which, having for its object the public propagation of religion or the performance of religious services, exercises general control over the *kyōkwai* or *tera* in accordance with the provisions of the *kyōki* or *shūsei* (sectary regulations).

No religious body subordinated to any *kyōha* or *shūha* can itself become a *kyōha* or *shūha*.

Art. VI.—No association or foundation which maintains a religious body or bodies, other than *kyōha*, *shūha*, *kyōkwai* or *tera*, can become a juridical person.

Art. VII.—A *kyōha*, *shūha*, *kyokwai* or *tera* may add to its objects prescribed in this Law the undertaking of any enterprise for the public benefit in accordance with the sectary regulations or the *Kyōkwai* or *tera* regulations.

Art. VIII.—When a public meeting is to be held in connection with religious matters, excepting such cases as are permitted by usage, the promoters thereof shall report to the Administrative Authorities the object, place, date and hour of the meeting, not later than twenty-four hours previous to the opening of such meeting This rule shall not apply to public meetings held by the religious bodies which have obtained the approval or permission of the authorities concerned.

In case a religious body shall hold public meetings in connection with religious matters at a fixed place and at regular periods, the report thereof shall be made not later than twenty-four hours previous to the opening of the first meeting; but no further report shall be required for the succeeding meetings, unless any change is made in the particulars previously reported.

Art. IX.—When any action taken in connection with the propagation of religion, the performance of religious services or any other religious matters, shall be deemed detrimental to the public peace or order, or injurious to public morals, or contrary to the duties of subjects, the authorities concerned may order such action to be modified or retracted, or may prohibit it.

Art. X.—No person who has been deprived of public rights or whose public rights have been suspended can become a manager of any religious body; nor can he hold any public meeting in connection with religious matters.

Art. XI.—No land or building used for purposes of worship by a *kyōha*, *shūha*, *kyōkwai* or *tera* can be attached.

Art. XII.—No tax shall be levied upon the following property:

1. Buildings and premises used for the purpose of propagating religion or performing religious services by a *kyōha*, *shūha*, or *kyōkwai*, and buildings established within such premises for the residence of teachers of religion.

2. *Jiin* and *Butsudō* belonging to a *tera*, and the premises thereof.

Regarding the exemption from the land tax in virtue of the preceding clause, the provisions appertaining to the land for public schools in Art. III of the Land Tax regulations apply correspondingly.

No registration tax shall be levied for registering the land and buildings mentioned in the first clause hereof.

Art. XIII.—Regulations regarding control of the premises, the restrictions as to the use of the land and buildings therein, as well as the description and limits of the property to be exempted from taxation as provided for in the preceding Article shall be determined by Order.

Art. XIV.—*Kyōha*, *shūha*, *kyōkwai*, *tera* and other religious bodies shall be subject to the supervision of the authorities concerned.

The Authorities concerned collect reports on their affairs, examine their condition, and otherwise issue such Orders or take such measures as are deemed necessary for exercising proper supervision.

Art, XV.—When a *kyōha*, *shūha*, *kyōkwai* or *tera* shall be deemed to have acted in contravention of Law or Order or to have undertaken an enterprise with an object other than its proper object, or to have violated any of the conditions under which the approval or permission has been given, or when it is deemed

necessary for public interests, the authorities concerned may revoke the approval or permission already given.

Chapter II.

"Kyōkwai" and "Tera."

Art. XVI.—Persons desiring to establish a *kyōkwai* or *tera* shall prepare the *kyōkwai* regulations or *tera* regulations, and obtain the permission of the Authorities concerned.

Art. XVII.—Alteration of the *kyōkwai* regulations or *tera* regulations, shall be subject to the approval of the Authorities concerned.

Art. XVIII.—There shall be a resident priest in a *tera*.

A vice-resident priest may be appointed in a *tera* according to the provisions of the *tera* regulations.

The vice-resident priest shall act for the resident priest in case a vacancy occurs in the latter post or the resident priest is unable to discharge his functions or the interests of the *tera* conflict with those of the resident priest.

Art. XIX.—There shall be a certain number of councillors in a *tera*, unless the permission of the Authorities concerned has been obtained to the contrary in cases where there are exceptional circumstances.

All matters regarding the number, term, qualifications, method of selection, powers and duties, and dismissal of the councillors, shall be determined by the *shūsei* or *tera* regulations.

Art. XX.—If a resident priest act without the consent of the councillors in cases where such consent is required according to the provisions of Orders, such action shall not be regarded as that of the *tera*.

Art. XXI.—Regarding the control and disposal of the property belonging to a *tera*, the approval of the Authorities concerned shall be obtained in accordance with the requirement of Orders.

In such case, any action taken without the required approval shall not be regarded as that of the *tera*.

Art. XXII.—The *Kyōkwai* regulations or *tera* regulations shall have the same effect as the articles of association provided for in Art. XXXVII of the Civil Code or the act of endowment of Art. XXXIX of the same Code.

Art. XXXIII.—The provisions relating to directors of a juridical person in the Civil Code and the Law for the Enforcement of the Civil Code, shall be applied correspondingly to the resident priests and the vice-resident priests acting on behalf of the resident priests, unless otherwise specially provided for in this Law.

Art. XXIV.—The functions to be performed by a Court of Law in accordance with Articles 40, 56, and 57 of the Civil Code, shall be exercised by the Authorities concerned either on the application of the persons interested or in virtue of the official function of the said Authorities.

Art. XXV.—In case a *jiin* is not built within the prescribed period after obtaining the permission for the establishment of a *tera*, or in case a *jiin* is not rebuilt within five years after its destruction, such *tera* shall be deemed as dissolved.

Art. XXVI.—When the charter of a *kyōha* or *shūha* shall have been terminated, the *kyōkwai* or *tera* which belonged to such *kyōha* or *shuha* shall apply within three months, for approval of the consequent alterations in the *kyōkwai* regulations or *tera* regulations.

The *kyōkwai* or *tera* which shall not apply for approval as provided for in the preceding clause, or which has not obtained such approval shall be deemed as dissolved.

Art. XXVII.—The method of dealing with the treasures belonging to a *tera* which had been dissolved, shall be determined by Imperial Ordinance.

Chapter III.

"Kyōha" and "shūha."

Art. XXVIII.—A religious body desiring to become a *kyōha* or *shūha* shall frame a *kyōki* or *shūsei* and obtain therefor the approval of the Authorities concerned.

Art. XXIX.—The *kyōha* or *shūha* shall appoint a representative who is to be approved by the Authorities concerned.

Art. XXX.—When disputes arise in connection with the matters regulated by a *kyōki* or *shūsei* but which have reference to the matters determined by Imperial Ordinance, they shall be adjudged by the Religious Council.

Such disputes as are to be adjudged by the Religious Council in accordance with the preceding clause, shall not be amenable to the jurisdiction of Civil Courts.

In cases where the matters to be tried and adjudged by the Religious Council form wholly or in part the cause of judgment in a law suit, the Court of Law concerned shall defer the hearing of such suit until the judgment of the Religious Council shall have been rendered.

The organization, powers and procedure of the Religious Council shall be determined by Imperial Ordinance.

Art.—XXXI. The judgments of the Religious Council shall be executed in accordance with the process of execution, of administrative measures.

Art. XXXII.—The provisions of Art. XVII hereof shall apply correspondingly to *kyoki* and *shusei*.

Chapter IV.

"Kyoshi" (Teachers of religion).

Art. XXXIII.—The term *kyoshi* used in this Law shall be held to mean those who are engaged in the public propagation of religion or the performance of religious services.

Art. XXXIV.—No person who has been deprived of public rights or whose public rights have been suspended can become a *kyoshi*.

Art. XXXV.—The provisions of Art. 360 of the Criminal Code, the provisions concerning testimony of persons referred to in No. 2 of the first clause of Art. 125 of the Code of Criminal Procedure, and in No. 2 of the first clause of Art. 298 of the Code of Civil Procedure, shall apply correspondingly to *kyoshi*.

Art. XXXVI.—The Authorities concerned may suspend or stop a *kyoshi* whose conduct is deemed detrimental to public peace or order.

Art. XXXVII.—No *kyoshi* can give public expression to his opinions on political affairs or engage in any movement of a political character.

Art. XXXVIII.—Matters relating to the qualifications and selection of *kyoshi* belonging to a *kyoha*, *shuha*, *kyokwai* or *tera*, shall be determined by Imperial Ordinance.

Art. XXXIX.—The provisions of Nos. 5 and 6 of Art. 570 of the Code of Civil Procedure shall apply correspondingly to *kyoshi* belonging to a *kyoha*, *shuha*, *kyokwai* or *tera*.

Chapter V.

Penal Provisions.

Art. XL.—When Art. VIII. hereof is infringed, the promoter shall be liable to a fine not exceeding 20 *yen*.

Any person, who even though he shall render the report provided for in Art. VIII. hereof, shall not state true facts therein, shall be liable to a fine not exceeding 30 *yen*.

Art. XLI.—Any person who shall infringe the Order or prohibition referred to in Art. IX hereof shall be liable to a minor confinement for a period not exceeding two years or to a fine not exceeding 300 *yen*.

Art. XLII.—Any person who shall become a manager of any religious body or hold a public meeting in contravention of Art. X hereof, or who shall exercise the functions of a *kyoshi* in contravention of Art. XXXIV hereof, shall be liable to a major confinement for a period not exceeding one year with an additional fine not exceeding 10 *yen*.

Any person who knowing the fact, shall appoint to be a *kyoshi* any person who has been deprived of public rights or whose public rights have been suspended, shall be liable to the same penalties as those provided for in the preceding clause.

Art. XLIII.—When no report is rendered in contravention of an order of the Authorities concerned given under Art. XIV. hereof, the manager of the religious body concerned shall be liable to a fine not exceeding 20 *yen*.

Any person who even though he shall render the report referred to in the preceding clause, shall not state true facts therein, shall be liable to a fine not exceeding 30 *yen*.

Any person who shall obstruct, in any way, the examination of the Authorities concerned to be made under Art. XIV hereof, shall be liable to the same penalty as that provided for in the preceding clause. In cases, however, where due provisions are made in the Criminal Code, those provisions shall be applied.

Art. XLIV.—Any person who shall adopt fraudulent or seductive means in the propagation of religion or the performance of religious services, or who shall exercise the functions of a *kyoshi* in disregard of the order by which he has been suspended or stopped under Art. XXXVI hereof, shall be punished by a minor confinement for a period not exceeding one year or liable to a fine not exceeding 200 *yen*.

Any person who shall knowing the fact, appoint to be a *kyoshi* a person who has been deprived of public rights or whose public rights have been suspended as provided for in Art. XXXVI hereof, shall be liable to the same penalties as those provided in the preceding clause.

Art. XLV.—Any person who shall infringe Art. XXXVII shall be punished by a minor confinement for a period not exceeding one month or liable to a fine not exceeding 30 *yen*.

Art. XLVI.—Any person who shall slander or defame a *kyoha*, *shuha*, *kyokwai* or *tera* by public speeches or by circulation of documents or pictures, or by performance of plays or by creation of figures, shall be punished by a major confinements for a period not exceeding one year with an additional fine not exceeding 50 *yen*.

Supplementary Provisions.

Art.—XLVII. The Instructions of the Home Department, No. 33 B. and No. 3 E. of the 14th year of *Meiji*, and No. 1 E. of the 15th year of *Meiji*, and the Notification of the *Dajokwan*, No. 19 of the 17th year of *Meiji*, as well as the other rules and regulations heretofore in force, which are inconsistent with the provisions of this Law, shall cease to be binding in so far as they relate to the religious bodies belonging to *Shinto* and Buddhism, to associations or foundations maintaining such bodies or *jin*, and to the other buildings used for religious purposes. The said Instructions, Ordinances, rules and regulations shall, however, continue in force for a period not exceeding one year after this Law comes into operation, in respect of such religious bodies as have not obtained the approval or permission in accordance with the present Law.

Art. XLVIII.—Rules regarding the disposal of property belonging to a *jin*, *shi-u* (*Shinto* temples) or *but-udo* (Buddhist temples or edifices) which have existed prior to the coming into operation of this Law, but have not become a *kyokwai* or *tera* according to this Law, shall be determined by Imperial Ordinance.

Art. XLIX.—Regarding the *tera* in Okinawa-Ken, the existing rules shall remain in force until the Regulation therefor shall be promulgated by Imperial Ordinance.

Art. L.—The provisions of Art. XXVIII of the Law for the Enforce-

ment of the Civil Code shall cease to be binding by virtue of this Law, in so far as they concern *jiin*, *shi-u* and *butsudo*.

Art. LI.—The provisions relating to *tera* in the existing laws or ordinances shall, after the lapse of one year from the coming into operation of this Law, apply exclusively to those which shall have obtained permission according to this Law.

The provisions relating to priests or religious teachers in the existing Laws and ordinances shall, after the lapse of one year from the coming into operation of this Law, apply exclusively to teachers of religion mentioned in this Law.

Art. LII.—Associations or foundations having for their object the propagation of religion or the performance of religious services, which have become juridical persons under the Civil Code or the Law for the Enforcement of the Civil Code shall, within one year from the coming into operation of this Law, shall frame *kyoki*, *shusei*, or *kyokuai* regulations according to this Law, and apply for the approval or permission of the Authorities concerned.

Those which shall not apply for the approval or permission provided for in the proceding clause, shall be deemed to have been dissolved.

Art. LIII.—This Law shall take effect from the 1st day of the 7th month of the 33rd year of *Meiji*.

BILL FOR AMENDING THE CONSCRIPTION LAW.

The Law of Conscription is amended as follows:—

The following clause is added to Art. XXIII:—

"In case a teacher of religion belonging to a *kioha*, *shuha*, or *tera*, who, being a graduate of a Middle School established by the Government, Fu or Ken, or any other school whose standard is recognized by the Minister of Education as equal or superior to that of any of the above mentioned schools, shall become liable to military service in one of those branches of arms where he may be called upon to engage in active fighting his enlistment may, upon his application, be deferred. Any person who shall cease to be a teacher of religion before attaining the age of 32 years shall be enlisted without the process of drawing lots. Any person who shall still be serving as a teacher of religion after attaining the age of 32 years, shall be enrolled in the *kokuminhei* (National Militia)."

After the words: "persons who have returned from abroad" in Art. XXV., the following words are added: "and those who, falling under the third clause of the same Article, shall cease to be teachers of religions before attaining the age of 32 years."

SUPPLEMENTARY PROVISION.

This Law shall take effect from the 1st day of the 7th month of the 33rd year of *Meiji*.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 391. December 28, 1899.



Mr. Buck

to the Secretary of State.

Subject:

Protection of trade in China.

UNITED STATES LEGATION,
TOKIO.

No. 391. December 28, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to acknowledge the receipt of Instruction No.263 of the 13th ultimo, in respect to the representations of the United States made to Germany, Great Britain, and Russia, to obtain formal assurances from these several powers claiming "spheres of influence or interest" in China, deemed necessary to remove possible causes of international irritation and to reestablish confidence so essential to commerce.

Upon the receipt of this instruction I immediately submitted to the Imperial Japanese Government, by note to His Excellency the Japanese Minister of Foreign Affairs, the considerations as set forth in the instruction, expressing the hope of my Government, as directed, that the suggestion of coöperation on the part of the Japanese Government in respect to those considerations would meet with approval and favorable action in aiding to secure their acceptance by other powers.

I have now received the reply of the Japanese Government by note from the Minister of Foreign Affairs (copy enclosed), which seems to be far short of what I had reason to expect. From a conversation which I had upon the subject with the Minister, I anticipated an expression of the purpose of his Government to heartily coöperate with the United States, without the condition precedent stated in his note, since he had expressed to me his great pleasure that my Government had taken

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the position it had, which was in the interest, not only of the United States but of Japan as well, stating also his high appreciation of the consideration of my Government in forwarding the information contained in my note. Possibly the unqualified acceptance and promise of action upon the suggestion to aid in securing other powers to give the assurances asked for were not granted, because of fear of giving cause of offence to some other Powers, notably Russia, with which Power, at this time, Japan seems to have delicate relations.

I have the honor to be,

Sir,

Your obedient servant,

T. O. Rinck

Enclosure:

Copy of Viscount Aoki's note, as above.

Enclosure with Mr. Buck's No. 391, dated December 28th, 1899.
(Copy)

Translation.

No. 20.

Department of Foreign Affairs,
Tokyo, the 26th day, the 12th month,
of the 32nd year of Meiji.

His Excellency
A. E. Buck,
Envoy Extraordinary and Minister Plenipotentiary
of the United States of America.

Monsieur le Ministre,

I have the honor to acknowledge the receipt of the Note No. 176 of the 20th instant, in which pursuing the instructions of the United States Government Your Excellency was so good as to communicate to the Imperial Government the representations of the United States as presented in notes to Russia, Germany, and Great Britain on the subject of commercial interests of the United States in China.

I have the happy duty of assuring Your Excellency that the Imperial Government will have no hesitation to give their assent to so just and fair a proposal of the United States provided that all the other powers concerned shall accept the same.

I avail myself of this occasion to renew to Your Excellency the assurances of my highest consideration.

(Signed) Viscount Aoki Siuzo,
Minister for Foreign Affairs.

DIPLOMATIC,
JAN 23 1900
BUREAU.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 392. December 29, 1899.

INDEX BUREAU
REC'D.
20 JAN 1900
DEPT. OF STATE

Jan. 24

Mr. Buck

to the Secretary of State.

Subject:

Registration Tax on perpetual leases in foreign settlement.

UNITED STATES LEGATION,
TOKYO, JAPAN.

No. 392. December 29, 1899.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to acknowledge the receipt of Instruction No.260 of the 6th ultimo in reply to my Dispatches Nos. 364 and 365 of the 4th and 6th of October last, in respect to perpetual leases in foreign settlements in Japan being confirmed, under the treaty, without other conditions' being imposed than are prescribed in existing leases, stating that, in the confirmation of such leases, no change in vested rights can be effected by requiring them to be registered as perpetual superficies, if such would be the effect, thus approving the position taken by me in that regard. Concerning the assignment of such leases, however, I am instructed that, as between private parties for private purposes, citizens of the United States are subject to the same registration fee or charge as is imposed upon Japanese subjects, unless the original leases stipulate to the contrary..

I now have the honor to report that by Imperial Ordinance copy enclosed) the Japanese Government has so amended the law of registration as to recognize that perpetual leases of property in foreign settlements can be registered as such without change, instead of as perpetual superficies as heretofore required, thus substantially though indirectly conceding my claim in that particular.

In

In respect to the requirement that a registration tax of 2½ per cent on value to be paid by the assignee of a perpetual lease in foreign settlements between private parties, I infer from a conversation which I have had with the Minister of Foreign Affairs that such registration tax is not to be enforced—conceding my contention that such tax ought not to be required to be paid, in consideration of the stipulations of the leases themselves and the provisions of Article XVII of the Treaty— though it will be enforced upon registration of mortgages and other liens on such property.

I have the honor to be,

Sir,

Your obedient servant,

Enclosure:

Copy of Imperial Ordinance No. 458, in duplicate.

Enclosure with Mr. Buck's No. 392 dated December 29th 1899.

The Japan Daily Mail.

Yokohama. Friday. December 29 1899.

THE TRANSFER OF LAND

Imperial Ordinance No. 458 of December 27th, 1899.

Translated by Dr. L. Lönholm.

The Imperial Ordinance No. 329 of the year 1899 is amended as follows:—

Art. I.—When a superficies (perpetual lease) created in a foreign settlement is transferred, such transfer cannot be set up against third persons unless it is entered in the title deed by the *Chihōchō* * of the place where such land is situated.

If an application according to the foregoing provision has been made by the parties concerned, or if a notification concerning a superficies (perpetual lease) has been made, the *Chihōchō* must without delay give notice thereof to the Registry Office within whose jurisdiction the land is situated.

When a *Chihōchō* gives notice of the transfer of a superficies (perpetual lease), a copy of the title deed must be annexed; but in case of a second or subsequent notice it is sufficient to add the designation of the land, the names of the parties concerned, their nationality and domicile, the ground of the transfer of the right, and the date.

If a right other than that mentioned under Paragraph I which might be set up against third persons has been duly acquired by an alien or a foreign juridical person before the time fixed in the Imperial Ordinance No. 251 of the 32nd year of *Meiji*†, but has not been registered before the said time, it cannot be set up against third persons, unless it is registered up to the 31st December, 1900.

Art. IV.—When an application for registration is made, all facts which can be set up against third persons must be mentioned in the application, and the documents necessary to prove such facts must be annexed.

When a Registry Office has received a notice of the transfer of a superficies (perpetual lease) it must register it *ex officio*, and the same applies when in case of a notification concerning a superficies (perpetual lease) an alteration in a registration is to take place.

If when an application for the registration of a right whose subject is a superficies (perpetual lease), is made, such superficies (perpetual lease) is not yet registered, such registration must be made *ex officio*.

Additional Provisions.

Entries as to the transfer of a superficies (perpetual lease), made in a title deed by a *Chihōchō* or a Consulate before the taking effect of this Ordinance, have the same effect as entries made by a *Chihōchō* according to the provisions of this Ordinance; but this does not affect the rights of third persons which have been registered after the time fixed in Imperial Ordinance No. 251 of the 32nd year of *Meiji*.

* 地方廳 That is, for Yokohama and Kobe, the *Kencho*.

† That is, the time fixed for the taking effect of the treaties.

UNITED STATES LEGATION,
TOKIO.

DIPLOMATIC,
FEB 6 1900
BUREAU.

INDEX BUREAU
REC'D.
6 FEB 1900
DEPT. OF STATE

No.393. January 3, 1900.

Inform Fish Com'n
Mission
Did so
Feb 13 C

Mr. Buck

to the Secretary of State.

Subject:

Acknowledging receipt of No.265. Privileges therein indicated will be extended to Fish Commission steamer ALBATROSS.

UNITED STATES LEGATION,
TOKIO.

No. 393.

January 3, 1900.

To the Honorable John Hay,
Secretary of State,
Washington.

Sir:

I have the honor to acknowledge the receipt of your Instruction No. 265, dated the 4th ultimo, with copy of a letter from the Fish Commissioner enclosed, directing me to obtain from the Japanese Government such privileges and facilities as are desired for the United States Fish Commission steamer ALBATROSS, which is to cruise in these waters—notably the Bonin Islands—during the coming spring, with a scientific expedition under Professor Agassiz.

I have officially communicated to the Foreign Office a request in detail for the privileges desired, as set forth in your instruction, and am assured that the matter will be attended to at once.

I have the honor to be,
Sir,
Your obedient servant.

[signature]

DIPLOMATIC,
UNITED STATES LEGATION,
FEB 7 1900 TOKIO.
BUREAU.

No. 394.

January 12, 1900.

INDEX BUREAU
REC'D.
6 FEB 1900
DEPT. OF STATE

Ans Feb. 17

Mem Feb. 7, 1901

Mr. Buck

to the Secretary of State.

Subject:

Registration of perpetual leases.

UNITED STATES LEGATION,
TOKIO.

No.394. January 12, 1900.

To the Honorable John Hay,
Secretary of State,
Washington.

Sir:

Referring to my Dispatch No.392 of the 29th ultimo, relating to the Imperial Ordinance recently published concerning the law of registration of land title, permitting perpetual leases of property in the foreign settlements to be registered as such without change, I have the honor to state that in an interview with His Excellency the Minister for Foreign Affairs yesterday, I learned that the requirement of the Ordinance that the registration of such leases or transfers thereof in the Chihosho (local Government Office), instead of the Registry Office proper, as also the use of the term "perpetual lease" as synonimous with "perpetual superficies", was because the law had made obligatory the payment of 2½ per cent of value as a registration tax or charge on such property at the Registry Office, and also because the law did not recognize the registration of perpetual leases as such; and that as an Ordinance could not directly repeal or annul the provisions of the law in those respects, it became necessary, in order to meet the objections made by me for and others, to indirectly, by Ordinance, recognize perpetual leases in parenthesis only and by changing the place of registration to relieve perpetual lease holders from the registration charge of the 2½ per cent of value.

I am informed by our Consul General at Yokohama that registration of perpetual leases as such and transfers thereof

of at the local Government Office is going on without charge other than the nominal sum in stamps in payment of a proper fee for registration.

I have the honor to be,

Sir,

Your obedient servant,

W. C. Buck

UNITED STATES LEGATION,
TOKIO.

DIPLOMATIC,
FEB 21 1900
BUREAU.

No.395.

January 15, 1900

INDEX BUREAU
REC'D.
2 IFEB1900
DEPT. OF STATE

2/13 Com
To Fish Commission.
Dft sd
Feb 24

Mr. Buck

to the Secretary of State.

Subject:

Steamship ALBATROSS of the U.S.Fish Commission--permissions granted.

UNITED STATES LEGATION,
TOKIO.

No. 395. January 15, 1900.

To the Honorable John Hay,
Secretary of State,
Washington.

Sir:

Referring to my Dispatch No.393 of the 3rd instant, on the subject of the visit to the Bonin Islands to be made by the United States Fish Commission steamer ALBATROSS, I have the honor to inform you that I am now in receipt of a note from the Japanese Government complying fully with the request that certain privileges and exemptions—set forth in your diepatch already acknowledged— be extended to the ALBATROSS with its scientific expedition. Instructions have been issued to the authorities concerned.

As desired by the note, I shall inform the commander, upon the vessel's arrival at Yokohama, that the Department for Communications desire to be notified as to the unopened ports visited or to be visited.

Free transhipment of apparatus is, of course, among the permissions granted.

I have the honor to be,
Sir,
Your obedient servant,

A. E. Buck

DIPLOMATIC,
JAN 16 1900
BUREAU

LEGATION OF JAPAN.
WASHINGTON.

INDEX BUREAU
REC'D.
16 JAN 1900
DEPT. OF STATE

January 15th, 1900.

The Minister of Japan presents his compliments to the Honorable the Secretary of State and has the honor to request that the Collector of Customs at New York may be instructed, if possible by telegraph, to extend the usual courtesies of non-inspection and free passage of personal baggage to Mr. Jiukichi Inouye, who has lately been appointed the Second Secretary of this Legation.

Mr. Inouye is coming by the White Star Liner "Oceanic" and is expected at New York on or about the 17th instant.

DIPLOMATIC,

UNITED STATES LEGATION,
TOKIO.
FEB 21 1900

No.#. BUREAU. January 16, 1900.

INDEX BUREAU
REC'D.
2 IFEB 1900
DEPT. OF STATE

2D ASSISTANT SECRETARY,
Copy to Secy of War.
Ack. So sent.
FEB 21 1900

Copy to War Dept
Feb 24
Ans
Inclosure 15

Mr. Buck

to the Secretary of State.

Subject:

48th Regiment of Infantry in Yokohama.

UNITED STATES LEGATION,
TOKIO.

No.—. January 16, 1900.

To the Honorable John Hay,
Secretary of State,
Washington.

Sir:

As a matter of some interest I have the honor to report that the steamship transport GRANT with the 48th Regiment United States Infantry (colored), under command of Colonel Wm. P. Duvall, arrived in Yokohama on the 11th instant, remaining some days to coal and departing yesterday for Manila.

By the courtesy of the Japanese Government Colonel Duvall was permitted on Saturday the 13th instant to take his regiment ashore with arms and hold a dress parade and drill on one of the public squares of the city, much to the gratification of American citizens there and to the pleasure of the people of Yokohama of all nationalities. I had the pleasure of witnessing the parade and drill. Considering the fact—as stated by Colonel Duvall, that his men had not had their rifles in hand since leaving San Francisco, twenty-two days before, and of course had done no regimental marching or drilling, the execution of the march and manual of arms was astonishingly good. The regiment was in good health and spirit and the soldierly bearing and general appearance of the men were all that could be desired.

This, as I am informed, is the first armed body of soldiers of any nationality ever permitted to land and parade at any port in Japan. Such a marked courtesy extended to our

troops

troops is very gratifying, and it was hardly to be expected.

I have the honor to be,

Sir,

Your obedient servant,

J. E. Buck

No. 396

UNITED STATES LEGATION,
TOKIO.

January 23, 1900.

INDEX BUREAU
REC'D
2 IFEB 1900
DEPT. OF STATE

DIPLOMATIC
MAR 14 1900
BUREAU.

Ackd again
April 10.
C

Mr. Buck

to the Secretary of State. No 293 to

Encl. Copy of enclosure No 293 to Am. Bd. of Com. for Fr. Missions and to Carroll D. Wright.
Encl. 29
C

Subject:

Status of foreign religious corporations in Japan.

ARY

April 2
Copy of enclosure No 293
to T. J. Ogburn, Cor. Sec'y Fr. Miss.
Bd of Am. Miss. of the Meth.
Prot. Church.
C

UNITED STATES LEGATION,
TOKIO.

No. 396

January 23,1900.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to acknowledge the receipt of Instruction No. 266 of the 8th ultimo concerning the establishment by the American Baptist Missionary Union of an educational trust in Japan, in which Instruction I was directed to take the opinion of competent counsel who might be able to suggest some favorable solution of what appeared to be a question of Japanese law. I was also directed to use my good offices with the Japanese Government with a view to find, if possible, some satisfactory solution of the difficulty.

I now have the honor to report that, upon the receipt of the Instruction, I immediately submitted the matter to R. Masujima, Esquire, considered to be one of the ablest lawyers of Tokyo, a Japanese well versed in the English language and a very successful practitioner.

Pending the receipt of the opinion of Mr. Masujima, in a conversation with the Minister of Foreign Affairs, I brought up the subject of the difficulty met with at the Department of Education by the representatives of the Missionary Union. The Minister manifesting much interest and expressing his desire to facilitate the establishment of the trust, if practicable, suggested that I bring to him the representative of the Union with a copy of the proposed

proposed articles of incorporation submitted to the Department of Education and of other papers in connection therewith, that he might have a thorough understanding of the question involved. That was done, and after a careful examination of the papers in connection with the law and some discussion, the Minister's conclusion was, to his expressed regret, that such a trust could not be established under Japanese law; that the law could not be so construed as to permit the recognition of a foreign corporation of the character of the Missionary Union in establishing such a trust, but that that end could be attained legally by the representative or representatives of the Union in Japan establishing a trust in an individual capacity independent of the Union, making any private contract or agreement with the Union satisfactory to the parties at interest, of which the Japanese authorities should not be privy, and the execution of which, of course, could not be enforced under Japanese law. The Minister's conclusion coincided with my own previously arrived at, though I had thought it might be possible, perhaps, that the Japanese Government might find it consistent, in some way, to recognize such corporative trust as a matter of comity.

I have now received the opinion of Mr. Masujima(copy enclosed) which does not agree with that of the Minister of Foreign Affairs. The opinion seems to me to be more the argument of an advocate of of one side of a doubtful case at issue rather than a disinterested judgment of law.

UNITED STATES LEGATION,
TOKIO.

Not being convinced that Mr. Masujima's opinion was to be relied upon as a safe guide to be followed, upon my suggestion, Mr. Herod, Secretary of the Legation, has also written an opinion, a copy of which I think proper to enclose.

To-day I have obtained from Bishop McKim, of the Episcopal Mission for Japan, a short statement (copy enclosed) touching upon the question of establishing such trusts, given by Dr. Kazuo Hatoyama, who, perhaps, equally with Mr. Masujima, may be considered as authority. His views are different from Mr. Masujima's and similar, so far as expressed, to those of the Minister of Foreign Affairs and of Mr. Herod.

I also enclose a translation copy of the "Memorandum of the Minister of Education" given some months ago to the representative of the Missionary Union as the grounds of his denial of the right to found the trust under the articles of incorporation as presented to him.

There now seems to be no doubt of the right under Japanese law of the representative or representatives of the Missionary Union residing in Japan to found the educational trust desired, whether the founder or founders shall be a citizen or citizens of the United States or Japanese subjects, or persons of both nationalities, wholly independent of the Missionary Union in so far as known to Japanese law.

I have the honor to be,

Sir,

W. D. Buck

UNITED STATES LEGATION,
TOKIO.

Sir,

Your obedient servant,

Enclosures:

1. Opinion of Mr. Masujima.

2. Opinion of Mr. Herod.

3. Opinion of Dr. Hatoyama.

4. Memorandum of Minister of Education.

Enclosure No. 1 with
Mr. Buck's No. 396.

Enclosure No. 1 with Mr. Buck's No. 396 dated January 23d 1900.

(Copy)

Tokyo, January 22nd, 1900.

Honourable A. E. Buck,

Envoy Extraordinary and Minister Plenipotentiary of

the United States.

Sir,

In the matter of the American Baptist Missionary Union re its application to the Japanese Government for permission to establish trust corporation, the facts of the case appear to be as follows:

The Missionary Union is a United States corporation having its existence under the laws of Massachusetts. The corporation proposes to found, according to the provisions of the Civil Code, a Japanese educational trust corporation called the Tokyo Chugakuin through Japanese trustees. It has prepared an act of endowment as founder as provided in article 37 and 39 of the Civil Code that is to say, the founders of a trust having the status of a legal person (zaidan hojin) must by the act of endowment made for the purpose of founding the trust determine the following points, namely: First. The object of the association, Second. The name, Third. The address of the office, Fourth. The rules governing the capital of the association, Fifth. The rules relating to the appointment and retirement of the directors. The act of endowment reserves to the founder the following powers, that is to say: power to appoint directors and liquidators, to control the act of the directors in accordance with the act of endowment as interpreted by the founder, to dissolve the trust when its object is accomplished, or it becomes impossible, or when the

founder

founder for any reasons desires dissolution, and to receive the trust property in money in the event of dissolution. When the trustees applied to the Japanese Minister of Education, for a charter of incorporation it was refused on the grounds that no act of endowment made by such a foreign body could be sanctioned by the Japanese Government whether its existence as a United States Corporation was duly proved or not. Their argument seems to be that Article 36 of the Civil Code does not recognize any foreign juridical persons other than states, administrative bodies, and commercial companies and such other artificial persons as may be admitted by law or treaty.

The question submitted to me is, whether the Massachusetts corporation is entitled to the recognition of the Japanese Government as falling within that class of foreign corporations which are admitted by law or treaty, or if not what is the feasible solution of the difficulty.

My opinion is, that the Massachusetts Methodist corporation is entitled as such to be the founder of the proposed trust institution in Japan. To support this opinion, I do not consider it necessary that any positive provisions of the Japanese Code or other laws need be cited. In fact there do not exist any such express provisions in Japanese law as would be the case almost anywhere else. The proposition may be sustained on broad principles of law. I hold that in Japanese jurisprudence a treaty with foreign nations has the same force as that of law, and if the existing treaty between Japan and the United States can be shown to cover the case of a United States Corporation, the desired recognition can be demanded as matter of right. In this connection it may be stated, in the light of modern jurisprudence and the state of social international

of

of the present day, that the real question to be considered is not, whether the existence of a foreign corporation is to be recognized or not, but whether the corporation in question is or is not considering the nature of its object and undertaking, repugnant to the policy of a state whose recognition is sought by the corporation. In these modern times it is mere sophistry to dispute the position of a corporation as a member of any civilized political society. A corporation duly introduced should be received as such and there should be no difference made between such a body and natural persons. If any objection could be made to its admission it should be only upon the scope of the capacity of such a person in view of the policy of the state within whose limits it seeks protection by considering alone the object and undertaking of such corporation.

Now to consider whether the United States Corporation is entitled to be recognized as such, by the Japanese Government let us examine the provisions of Article I of the treaty of 1895 being the existing convention of amity and commerce between the two nations. The article says as: "The subjects or citizens of each of the two high contracting parties shall have full liberty to enter, travel, or reside in any part of the territories of the other contracting party and shall enjoy full and perfect protection for their persons and property. It may safely be asserted that the words "subjects and citizens" include a corporation in each case and the existing treaty modifies impliedly the general rule that a corporation has no legal status or existence outside the State which has created it. In the case of the Society for the Propagation of the Gospel in Foreign Parts v. New Haven (8, Wheaton 464) it

it was held by the Supreme Court of the United States that the property of a British corporation in the United States is protected by the 6th Article of the treaty of 1783 in the same manner as that of natural persons; and their title thus protected was confirmed by the 9th Article of the treaty of 1794. The said Article 6 says; There shall be no future confiscations made nor any prosecutions commenced against any person or persons for, or by reason of the part which he or they may have taken in the present war (8 Statutes at Large 83) and said Article 9 says; It is now agreed that British subjects who now hold lands in the territories of the United States and American citizens who now hold lands in the dominion of His Majesty shall continue to hold them according to the nature and tenure of their respective estates and titles therein. (8 Statutes at Large, 122). On the face of such high judicial opinions it should not be disputed that the recognized signification of the two words subjects and citizens includes corporations. The construction of the treaties given by the highest tribunal of the land should be taken as the most significant evidence of the intention held by that Government of which the tribunal is a part. If an explanation is sought for such judicial exposition, it lies in the fact that corporators constitute a corporation and they are presumably subjects or citizens of the state creating it. This was decided in the case of Steamship Company v. Tugman-(106 United States Reports, 118)-where it was held that the members of a foreign corporation when it sues or is sued in a court of the United States are conclusively presumed to be citizens or subjects of the State or country which created it. Then Justice Harlan said that the case of Louisville, Cincinnatti, and Charleston R.R.

Company

Company v. Leston (2 Howard 497) decided, that where a corporation is created by the laws of a state, the legal presumption is, that its members are citizens of the state in which alone the corporate body has a legal existence; and that a suit by or against a corporation in its corporate name, must be presumed to be a suit by or against citizens of the state which created the corporate body. To the rule thus established by numerous decisions, the Court adheres. It is therefore only necessary to say that if the individual members of a corporation, created by the laws of one of the United States, are, for purposes of a suit by or against it in the courts of the Union, conclusively presumed to be citizens of the state by whose laws that corporation is created and exists, it would seem to follow, logically, that the members of a corporation, created by the laws of a foreign State, should, for like purposes, be conclusively presumed to be citizens or subjects of such foreign State. Consequently, a corporation of a foreign state is, for the purposes of jurisdiction in the courts of the United States to be deemed, constructively, a citizen or subject of such State. Again it was held by the same authorities in the case of the Bank of Augusta v. Earl (13 Peters, 519) that by the comity of nations, a foreign corporation is allowed to make a contract within the limits of its power in so far as it is not contrary to their known policy or injurious to their interests. If the laws of the United States recognize the principles above cited, it may be presumed that their existence is a guarantee that the treatment based upon them will be granted to the subjects or corporations of any power in amity with the American Republic. Thus it will be observed that the United States would grant,

and

and is bound to give, acting upon the principles of the comity of nations as part of its laws, Japanese corporations every protection in so far as the nature of the object and work of such corporation is neither repugnant to the policy of the Republic nor injurious to its interests. If such proposition be correct, it would not be unreasonable for the United States Government to claim on behalf of its citizens or corporations on the grounds of reciprocity as well as the general principles underlying the doctrine of the comity of nations, the same treatment from the Japanese Government as that which would be accorded to a Japanese subject or corporation in the United States. Almost all cases bearing upon the status of a corporation in the jurisdiction of a foreign domicile so far have turned upon whether such a corporation may make a contract or sue or be sued in a foreign jurisdiction, because such points only required immediate decision. But the right to make an endowment for educational or other purposes does not at all differ, as a legal question, from that of making a contract, suing, or being sued, or doing any other act which a corporation may do as being incidental to or within the scope of its objects. The construction given to the Japan-United States Treaty as above suggested should be accepted by the Japanese Government and it cannot deny its privity to such views. The construction is not one-sided, since it is supported not only by the ruling of the Supreme Court of the United States, a party to the Convention, but it is also consonant with the modern ideas of intercourse between nations. The present case is one where the doctrine of the comity of nations must play its part. It might reasonably be expected that the point under consideration would be one to which the Japanese Government would aspire

CRANE'S

aspire to apply its present liberal and enlightened policy.

It may be asked whether the State of Massachusetts would accord to a Japanese corporation such treatment as is claimed now for its corporation because the Government of that State cannot be said to be a party to any treaty or other arrangements between foreign nations and the United States. But such a question is superfluous. Treaties are declared by the Constitution of the United States to be a part of the Supreme Law of the land and they are as such obligatory upon Congress as upon any other branch of the Government or the people at large If treaties have the same validity as the laws of the United States they are equally binding upon the several States of the Union, especially as they deal with foreign relations, power to control which has been relegated to the federal Government by the Constitution of the United States.

Coming to the most pertinent question, whether the application of the Missionary Union would be opposed to the policy of the Japanese Government, an objection which might have been raised but which in fact has not been made in this case, I hold that the establishment of the proposed educational trust is in strict accordance with the provisions of the Civil Code. Article 90 of the Civil Code says: Legal acts having for their object that which is contrary to public order or morality are invalid. Article 39 of the Code already cited has left to the founder the right to prepare an act of endowment, and the powers which the Missionary Union has proposed to reserve to itself are not, I assume, such as would be considered contrary to the policy or interests of Japan. Should however, a different view be entertained, it is for the Japanese

anese Government to show reason for its opinion. If the question is raised that the Massachusetts corporation is a religious institution and that it is not always advisable that such a foreign body should exercise powers over Japanese property such as are proposed to be reserved by the act of endowment , the privilege of religious freedom secured by the existing treaty would become almost completely futile, and one of the objects expressly provided for in the revised treaty would be defeated. In modern times almost everything is established and conducted by means of an artificial combination in the form of a corporation. The practice of so carrying on different human projects should not be denied or discouraged, unless contrary to public order or morality. But then the Japanese Government has ample power to withdraw the sanction from any corporation where it sees fit, as provided in Article 71, of the Civil Code, which says: "Should a legal "person transact business beyond the scope of his declared "object, or violate the conditions of the permission for his "creation, or otherwise commit any acts calculated to injure "public interests, the proper authorities may cancel the per-"mission given." Again what is asked in the present application, is not to have its Massachusetts charter recognized and to have its existence sanctioned in the same manner as in its home domicile so as to enjoy all its corporate privileges in Japan. It proposes only to be a donor of an educational trust to be established and carried on under the authority of the Japanese law. The making of an act of endowment is no more than an ordinary civil act, it being a mere act of making a gift of property as provided in Article 41 of the Civil Code

Code, which says: "If an act of endowment is made by a person "during his life-time, the provisions relating to donations "shall be applied. If an act of endowment is made by will, "the provisions relating to bequests shall be applied." Article 36 of the Civil Code refers to the case of a foreign corporation where it proposes to have its own name and corporate existence recognized in exactly the same manner as any other corporation which is primarily admitted according to the provisions in the first portion of the Article and therefore its provisions do not apply to the present case.

I therefore maintain that the Missionary Union, being a United States Corporation, is entitled to the same protection as a citizen of the United States and that its present act is in perfect accord with the letter and spirit of the Japanese law.

I am, Sir,

Yours respectfully,

(Signed) R.Masujima.

Enclosure No. 2 with
Mr. Burke's No. 396.

The American Baptist Missionary Union, a corporation created by and existing under the laws of the State of Massachusetts, and having its principal office in Boston in that state, wishing to incorporate in Japan a certain educational trust to be called the Tokyo Chu Gakuin Zaidan, of which it, the said American Baptist Union, was to be the founder, filed with the Imperial Japanese Department of Education an application for such incorporation, in which, under the title of an "Act of Endowment," were set forth the conditions of the trust.

The Department of Education rejected the application, basing its decision on the ground that the proposed founder, or patron, the said American Baptist Union, had not and could not have in Japan any legal existence.

An examination of the conditions of the Act of Endowment discloses

1--That the American Baptist Union is a religious corporation existing under the laws of Massachusetts.

2--That the said corporation aims, through the creation of an intermediate Japanese juridical person, to establish and control one or more religious schools in Japan.

3--That the said corporation is to maintain absolute authority over the Japanese juridical person.

4--That the corporation, through the agency of a trust, aims at the ownership and control of real property in Japan.

An instruction from the Department of State, reciting a history of the case, propounds two questions upon which legal opinion is desired:

(a) Is the Japanese Government pursuing a legal or warrantable course in refusing to recognize the existence of the American Baptist Union?

and

(b) Can foreign natural persons secure in Japan recognition as founders of a corporation?

It being true as a general proposition that a corporation has no legal status outside the state which has created it, the right of a corporation created under the laws of the United States, or any State thereof, to recognition by the Government of Japan can be claimed only by some provision in a treaty between the United States and Japan, or in the internal laws of the Japanese Empire. As stated in Instruction No.266 of December 8th, 1899, the treaties between the two countries guarantee no such right. The right, if it exists, must be extended by the internal laws of Japan. All the fundamental laws for the creation and recognition of corporations and trusts (called "juridical persons") in Japan are embodied in Book I, Chap.2, Sec.1, Arts. 33-51 of the Civil Code. All these articles, with the exception of Article 36, refer to the creation of juridical persons by Japan. Article 36 alone alludes to foreign juridical persons and their recognition, and the provisions of this article contain a direct denial of the right sought by the American Baptist Union. It reads (Lonholm's translation) as follows:-

"The existence of foreign juridical persons other than states, administrative districts and commercial companies is "not admitted" (recognized); "but this does not apply to such "foreign juridical persons as are admitted by law or treaty."

No law or treaty has modified or amended this article. The provisions of the commercial Code relating to foreign corporations, and Government Notifications etc. for carrying them into operation, are applicable to associations having as their

their object the conducting of commercial business for profit. (Art.42 Commercial Code. Art.35 Civil Code). For an interpretation of the words "other than states etc." as used in Art.36, it is only necessary to refer to Art.33 of the same code, which contains a complete list of all other forms of juridical persons known to Japanese law. They are "Associations, or foundations for "purposes of religion, worship, charity, science or art, or "other purposes of public utility, not having as their object "the making of profits."

The American Baptist Union, being both a foreign and a religious corporation, has no right under law to recognition by the Japanese Government, and the action of the Department of Education in refusing or witholding such recognition is justifiable and warrantable.

In regard to the question (b), there is no doubt that foreign natural persons can, by following the course prescribed by Japanese laws, become founders of a trust or corporation created by Japan. Art.2 of the Civil Code provides that "Foreigners enjoy private rightd except as forbidden by law, regulation or treaty." In other words, American citizens are by this article placed on an equality with Japanese subjects in regard to all private rights except in cases where law or treaty direct otherwise. The exceptions regarding the ownership of land, mining, etc., it is unnecessary to recite in detail. It suffices to say that in their rights to incorporate and become founders of trusts or corporations foreigners (natural persons) are in no wise restricted.

"A partnership or company created in Japan under Japanese law and duly registered becomes a Japanese juridical person, distinct from its individual members, even though some

"some or all of its members are foreigners. Such a partnership "or company of foreigners has, as a Japanese juridical person, " all the rights of a somilar partnership or company composed " entirely of Japanese, including the right to own land." (Lonholm's The Conditions of Foreigners under the New Treaties p.24). Within the scope of objects set out in Arts.34 and 35 -f the Civil Code, any number of foreigners, or foreigners and Japanese, may, as an association, secure recognition as a juridical person, whether the object of the association be profit or religion. (A number of foreigners belonging to the Society of Friendshave recently secured the registration of an association under the name of "Furendo Jogaku". The object of the association is to impart Christian education to Japanese girls.---A number of Americans representing the American Tobacco Trust together with a number of Japanese have registered a commercial association under the title of "Kabushiki "Kwaisha Murai Keitei Shokwai"). When such juridical person, notwithstanding the nationality of its founders or members, receives the sanction or recognition of the Japanese Government, the nationality of its founders is lost; the artificial person is a creature of Japanese law and of Japanese nationality entitled to the same private rights, as far as they can be enjoyed, as a Japanese subject. It can, in its personality distinct from its members, hold property, sell, and contract, subject to its articles of incorporation, sue and be sued. (Lonholm's Conditions etc., p.24) "Thus John Doe and "Richard Roe as individuals cannot hold land separately or "jointly, but the firm of Doe and Roe (a registered firm or "partnership is a juridical person like a corporation) might

do

do so:

do so." . Dr. Lonholm, in a letter to the Japan Weekly Mail of December 23d 1899, says:- "It will interest your readers to "hear that the Yokohama District Court has decided that regis- "tered partnerships and companies whose principal office is "in Japan may acquire the full ownership of land, even though "all the partners are foreigners. The land in question is "situated in Honmoku and the two partners are Germans."
It is stated in the Japan Weekly Mail of January 13th 1900 that the Minister of Home Affairs of Japan instructed the head of the Hokaido administration that " according to the provisions of Japanese law, there was no obstacle to the own- "ership of real estate by juridical persons composed entirely "of foreigners."

We have then the right by code for Americans to create and register in Japan for commercial, religious, or other purposes set out in Arts.33 and 34 of the Civil Code, a juridical person. Such juridical person can own and, within its scope of objects, buy and sell real estate and mortgage the same. The American Baptist Union, therefore, can have incorporated in Japanby the means of its emmisaries or representatives acting in their individual capacities, a religious or educational juridical person which will have full power to own property if desired. The only difficulty is the one of control of the independent Japanese juridical person by the Massachusetts corporation. A deed of trust or a mortgage made by the body in Japan in favor of the home corporation would not seem satisfactory, owing to the difficulty of enforcing or foreclosing, the Massachusetts corporation having no existence in Japanese law. I am of the opinion that the proper

and

and safe course would be this:

That the Japanese Juridical Person mortgage to the full value of property possessed by it to an American industrial or commercial corporation that has a registered branch or agency in Japan. Such registered American commercial corporation has the right to acquire Mortgages. (Arts.36 and 43 Civil Code. Sec.5, P.9, Lonholm's Conditions etc.).

That the American commercial corporation then execute a deed of trust to the American Baptist Union which might be enforced by the courts in the United States.

By this course I think the Massachusetts corporation coyld maintain control of the Japanese corporation as desired.

Joseph C. Stowe

REGISTRATION OF LEGAL PERSON.

(From Official Gazette of January 23rd, 1900).

No. 33, Book 1 of the Registry of Legal Persons.

Name:- Furendo Jo-Gakko

Office:- 30 Koun Machi, Mita, Shiba, Tokyo.

Object:- To impart Christian education to Japanesé girls.

Date of Permission of Establishment:- Sanctioned by the authorized Government Office December 27, 1899.

Amount of Capital:- Yen 20,500.--

Method of obtaining Funds:- The general expenses of the school are to be paid by donations.

Name and Address of the Managers:-

Joseph Cosand, Minister, American, 30 Koun Machi, Shiba, Tokyo.

E.M.Grundy, Teacher, British, " " " "

Gurney Binford, Teacher, American, 28 Daimachi, Mito.

Date of Registration:- January 19, 1900.

(Signed) TOKYO DISTRICT COURT.

ARTICLES OF FOUNDATION FOR THE FRIENDS' GIRLS SCHOOL.

oo

I.-- The object of the school is to impart Christian education to Japanese girls.

2.-- The name of the school is the "Furendo Jo-Gakko".

3.-- The school is located at 30 Koun Machi, Shiba Ku, Tokyo.

4.-- The property of the School is the gift of the Women's Foreign Missionary Association of Friends, of Philadelphia, U. S. A.

The Furendo Jo-Gakko property cannot be used for any other purpose than for the school.

5.- The managers shall be three persons chosen by the "Friends "Foreign Mission[illegible] Committee in Japan" from among the members of the said Committee.

One of the three managers shall be the head of the Board of Managers.

6.-- When a member of the Board of Managers leaves Japan or dies or for any other cause loses membership in the "Friends "Foreign Mission Committee in Japan", his membership in the Board of Managers of the "Furendo Jo-Gakko" shall cease and a successor shall be chosen by the said "Friends Foreign Mis-"sion Committee in Japan."

RULES OF THE FOREIGN MISSION COMMITTEE.

----------oo----------

1.-- The object of this committee shall be to teach the Christian religion in Japan and to impart Christian education to Japanese youth.

2.-- All missionaries working under the direction of the Missionary Associations (The W.F.M.A. of Friends, Philadelphia, U.S.A., and the W.F.M.S. of Friends, Canada) which are united in the work of the Japanese mission , and any other foreign Friends who may wish to join in the work of this mission under the auspices of this Committee shall be eligible to membership. All members shall be admitted by decision of the Committee.

Enclosure 3 with Mr. Buck's No. 398.

(COPY.)

Tokio, November 6,1899.

My dear Bishop McKim,

In reply to your note of the 28th October, I wish to say that I have nothing to add to my verbal opinion when you were pleased to call on me,nor have I any reason to change the opinion I then held; that is(1) you cannot as Bishop hold superficies in trust for the American Missionary Society, that is to say if any question should come up before the Japanese court of law you will be simply recognized as an American citizen, but not as the representative or trustee for the society.

(2) There is no legal way of recognising the society- as the lessee of the superficies.

I wish to apologise for the delay in replying to your favor.

Yours very truly,

(Signed) K. Hatoyama.

Encl. No. 4 with
Am. Buckle No. 396

MEMORANDUM.

1.- The application for the establishment of a Trust as a juridical person (Zaidan Hojin) should be made by the donor or his representative. It should not therefore be filed by Mr. Sumi-no-kura Gado and two others.

2.-- The translation should be certified to by the donor as a correct translation, have have his signature attached.

3.-- Is the Missionary Union a juridical person in the United States ~~xxxx~~ for the purpose of religion? If so , by Art. 36 of the Civil Code its existence cannot be admitted (recognized) and accordingly the said Union has no power to make an act of endowment.

4.-- The amount of the capital of the Trust in Japan should be written in the act of endowment.

5.-- The interpretation of the act of endowment should be made by the authorized Government office, and not by the donor. The words "Act of endowment etc., etc.," should therefor be amended.

6.-- If the Missionary Union is a partnership the act of endowment shold be made by the partners, either separately or collectively. If Charles Henry D. Fisher is the representative of the said Missionary Union, the donor should certify to the translation of his power of attorney as a correct translation, and affix their seal thereto.

391

UNITED STATES LEGATION,
TOKIO.

No. 397. January 26, 1900.

INDEX BUREAU
REC'D.
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DEPT. OF STATE

DIPLOMATIC,
FEB 21 1900
BUREAU

Mr. Buck

to the Secretary of State.

Subject:

Question of the American Unitarian Association's holding property in Japan.

UNITED STATES LEGATION,
TOKIO.

No. 397.

January 26, 1900.

Wright
Dec 2 1899.

To the Honorable John Hay,
Secretary of State,
Washington.

Sir:

I have the honor to acknowledge the receipt of Instruction No.267 of the 8th ultimo, enclosing a copy of a communication from Mr.Carroll D.Wright, President of the American Unitarian Association, directing me to report information desired by him in respect to the question whether that Association can hold property in Japan as an association, or whether it can hold it in the name of some Japanese subject, or whether the property can be held by an American citizen in the United States.

As to the first of the three propositions, whether property can be held in Japan by the Association as such, I have the honor to refer to my Dispatch No.396 of the 23rd instant and enclosures therewith, in which the question is fully discussed, and which gives all the light upon the subject which I can obtain.

In respect to the second and third questions, whether property can be held in the name of some Japanese subject, or whether it can be held in the name of an American citizen residing in the United States, I have the honor to state that if it is to be understood that such property is to he held by either of them as a representative of the Association, the same difficulty would be met as in the Association itself holding property.

The

The ownership of land by foreigners is not permitted by Japanese law, whether residing in the United States or other foreign country or in Japan, though an American citizen undoubtedly can hold movable property, which under Japanese law includes buildings on the land, as well as such effects as in the United States are held to be personal property.

I infer from the letter of Mr. Wright, as also from information I have of the property in question, that it is property used for educational purposes. Such property can be founded by American or Japanese representatives of the Association, or by persons of both nationalities, as a juridical person, and as such the property can be held in its name, real and personal—See Chapter 11 Section One of the Civil Code of Japan. But the property can in no sense be held in trust for the Association, so far as known to Japanese law. The Japanese Government hold that, so far as any legal right to hold such property in the manner indicated is concerned, that depends upon its being held and controlled by individual founders over whom the Association can have no legal control.

I have the honor to be,

Sir,

Your obedient servant,

W. C. Grew

The ownership of land by foreigners is not permitted by Japanese law, whether residing in the United States or other foreign country or in Japan, though an American citizen undoubtedly can hold movable property, which under Japanese law includes buildings on the land, as well as such effects as in the United States are held to be personal property.

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I have the honor to be,

Sir,

Your obedient servant,

W. O. Buck

UNITED STATES LEGATION,
TOKIO.

DIPLOMATIC,
FEB 21 1900
BUREAU.

INDEX BUREAU
REC'D
2 IFEB 1900
DEPT OF STATE

Sent to Canal Commission Dec. 20 Sent Dist 20 Feb 24 C.

January 30, 1900.

Mr. Buck,

to the Secretary of State.

Subject:

Maps for the Isthmian Canal Commission.

UNITED STATES LEGATION,
TOKIO.

January 30, 1900.

Honorable John Hay,
Secretary of State,
Washington, D.C.-

Sir:

Referring to my despatch of December 6, last, relative to the information desired by the Isthmian Canal Commission regarding the mineral, agricultural, forest and railroad resources of Japan, I have the honor to state that on again inquiring at the Department of Agriculture and Commerce I am informed that the latest reports on those subjects will not be issued until next month, instead of this month as formerly stated.

I therefore beg to transmit herewith, under separate cover, in advance of a detailed report, a number of maps that I have been able to procure which seem to set forth in a general and comprehensive manner the information desired; viz., (1) the agricultural areas, showing the distribution and amount of the chief productions; (2) the mineral areas, giving the nature and location of the mines; and (3) the railways of the country, Government and private, with the number of lines in operation and projected.

More detailed information will be sent as soon as the latest reports referred to are available.

I have the honor to be,

Sir,

Your obedient servant,

Three enclosures as noted.

UNITED STATES LEGATION,
TOKIO.

No. 398.

February 5, 1900.



Rec'd Feb 7, 1901

Mr. Buck

to the Secretary of State.

Subject:

The question of the registration of perpetual leases in former foreign settlements.

UNITED STATES LEGATION,
TOKIO.

No.398. February 5, 1900.

To the Honorable John Hay,
Secretary of State,
Washington.

Sir:

For the information of the Department and as a matter of some importance, I have the honor to enclose herewith a copy of resolutions adopted at a meeting of foreign residents in Yokohama concerning the registration of titles of perpetual leases in the former foreign settlements there, together with a copy of a communication from Mr.John Lindsley, an American resident, transmitting the resolutions to Consul General John F.Gowey; also the dispatch (copy) of the Consul General in forwarding them, and also a copy of my instruction to the Consul General in respect to the resolutions and the request made by Mr.Lindsley.

Considering the information I had received as to the attitude of our people in Yokohama concerning the registration of titles of perpetual leases, upon the promulgation of the Imperial Ordinance No.458 of the 27th December last, —which, at the time, was published and discussed in the newspapers— and the fact that no complaint had reached me and no inquiry had been made in respect to the effect of the ordinance, I had assumed that the ordinance was regarded by them as measurably satisfactory, and was surprised that the American residents there should join with foreigners of other nationalities in passing the resolutions and that my efforts with the Imperial Government should be solicited in their behalf, without first hearing what, if anything, had already been done by me in the direction

direction of their suggestions.

While the Imperial Ordinance No.458 of December 27th last (copy enclosed with my Dispatch of the 29th of December, No. 392), in providing for the registration of titles of perpetual leases as 'superficies (perpetual leases)', was not entirely satisfactory, yet, as stated in my Dispatch No.392, I regarded it as indirectly in accord with treaty provision.

I understand that the resolutions do not express the views of all American residents holding titles of perpetual leases in Yokohama, though they probably do of a majority of them, as the meeting passing the resolutions, I am informed, was fairly representative.

I have the honor to be,

Sir,

Your obedient servant,

T. E. Buck

Enclosures:

No.1. Copy of resolutions.

No.2. Mr.Lindsley's letter.

No.3. Mr.Buck to Mr.Gowey.

No.4. Mr.Gowey to Mr.Buck.

Enclosure No. 1 with Mr. Buck's No. 398 dated February 5th, 1900.

(Copy)

Copy of resolutions passed at a meeting of landrenters of the former Yokohama Foreign Settlement, held on January 19th, 1900.

It is resolved by this meeting of landrenters of the former Foreign Settlement of Yokohama that the following facts be brought to the notice of the Imperial Japanese Government:

1. That although the revised treaties provide that the existing Government leases in perpetuity of foreign settlement property shall be confirmed, steps have not yet been taken by the Government to confirm them, and the laws of Japan appear to contemplate their compulsory conversion into a new and different kind of right , which is called "superficies".

2. That under existing laws the right of perpetual lease is not recognized, and since the coming into operation of the revised treaties the holders of such leases have been unable to sell or mortgage their land except on the terms of allowing the leasehold interest to be registered as a "Super-"ficies", which they have been and are unwilling to do.

3. That the non-recognition of what foreigners conceive to be a right plainly secured to them by their title deeds and by treaty has resulted in a general feeling of insecurity, and is stopping all sales and mortgages of former foreign settlement property and is threatening such property with a very serious depreciation in value.

4. That in order to remedy the evils of the situation and to restore confidence it is most desirable that the Imperial Japanese Government shall at once confirm the aforesaid

leases

leases in perpetuity and make all necessary provisions for their recognition by law, and for the registration of them under a separate designation.

5. That properties held by foreigners in the former foreign settlements have been made subject to new conditions and taxes and charges from which in the opinion of this meeting the revised treaties were intended to exempt them.

And it is further resolved that copies of the foregoing resolutions be forwarded to His Imperial Japanese Majesty's Minister for Foreign Affairs through the usual channels.

Enclosure No. 2 with Mr. Buck's No. 38 dated February 5, 1900.

(Copy)

Hon. J.F.Gowey,

Consul General of the United States of America,

Yokohama.

Sir:

Acting on behalf and by authority of a representative body of citizens of the United States of America, all of whom are holders of perpetual leases of property in the former foreign settlements, granted and confirmed by the Imperial Japanese Government in accordance with treaty stipulations, I have the honor to enclose a copy of certain resolutions passed unanimously at a duly convened and largely attended meeting of foreign landowners held in Yokohama on the 19th instant in which the said citizens took part, and to request that the same be forwarded to His Exdellency the Minister of the United States, in Tokio.

It is hoped by American landowners that His Excellency the Minister of the United States will support the views expressed in the resolutions, and that he will use his good offices in assisting them to obtain the relief so necessary and so earnestly desired.

I have the honor to be ,

Sir,

Your obedient servant,

(Sgd.) John Lindsley.

Yokohama, January 24th, 1900.

Enclosure No.3 with Mr.Buck's No.398, dated February 5th, 1900.

(copy)

No.1685. United States Consulate General,

Yokohama, Japan, January 24, 1900.

His Excellency Alfred E.Buck,

etc., etc., etc.,

Tokyo.

Sir:

I have the honor to enclose herewith a copy of a letter of this date addressed to me by Mr.John Lindsley, an American merchant of Yokohama, accompanying a copy of a resolution passed at a meeting of certain foreigners at Yokohama relative to land titles.

I have the honor to be,

Sir,

Your obedient servant,

Consul General.

Lowe No 4, with Mr Buck's No 398, dated February 5th, 1900.

LEGATION OF THE UNITED STATES,
Tokyo, January 31, 1900.

John F. Cowey, Esquire,

United States Consul General,

Yokohama.-

Sir:

I have to acknowledge the receipt of your despatch No. 1685, of the 24th instant, enclosing a copy of a communication to you from Mr. John Lindsley with a copy of resolutions passed at a meeting of holders of perpetual leases of property in the former foreign settlement in Yokohama in respect to their titles. The resolutions set forth the leaseholders' complaint that the Imperial Government has not yet confirmed their titles as provided by treaty, but have imposed new conditions in contravention of treaty ~~xixhisx~~ stipulations and declare the necessity, for the protection of the leaseholders, that the Imperial Government should at once confirm titles and register them accordingly as perpetual leases; and in Mr. Lindsley's communication the hope is expressed that I support the views given in the resolutionand use my good offices to obtain the relief so necessary and so earnestly desired.

The American holders of perpetual leases in Yokohama in joining in passing the resolutions were not aware, it would seem, of what action I had taken to secure them protection of their property rights guaranteed by treaty, since, until the receipt of the resolutions and letter accompanying your despatch, I have had no inquiry from any of them for information as to what I had done or proposed to do for their protection, or request to take any action whatever in that respect.

That our fellow citizens in Yokohama may know of what attention I have been giving to this important matter, I pro-

ceed to give a resumé of what has been done, and the real situation in respect to registration of land titles as I understand it.

In September last, learning that a British subject, holding a perpetual lease in Yokohama, in the foreign settlement, had been denied its recognitions as such and was required to have it registered, if at all, as a superficies, anticipating that the same course would be taken in respect to registration of titles of American citizens, I addressed a note to the Minister of Foreign Affairs, calling attention to the treaty stipulations prohibiting the imposition of any condition whatever in addition to those setout in the leases themselves, in which note I claimed that the registration of such perpetual leases at the Saibansho , by which, if I was rightly informed, such leases were tobe registered, as perpetual superficies, would, in my opinion, change the conditions of the original contracts of lease, inasmuch as a superficies, as I understood restricted the holders of such lease to uses of the land in certain respects and, in some contingencies, though declared perpetual, would restrict its duration also and consequently impair the value of the property.

Before addressing the official note to the Minister of Foreign Affairs, I had in person earnestly expressed my views as to the registration of perpetual leases as superficies, and since have had several interviews with the Minister, expressing my opinion of such a requirement as violative of treaty provisions. In all our interviews the Minister has expressed himself as fully conceding that perpetual leases and their transfers must be registered without change of their conditions.

On the promulgation of Imperial Ordinance No. 458, concerning the registration of perpetual leases in question, he assured me then, as he has since, that, by that Ordinance requiring such leases to be registered as superficies (perpetual leases), the Imperial Government made no change in the character of the titles whatever; that the courts must recognize the Ordinance as providing for the registration of perpetual leases without change of conditions of such leases by the registration therein provided for; and that he would give me in an official note an explanation of the purpose and real effect of the Ordinance as intended and understood by his Government, which note would be a duplicate of that already sent to the British Minister. Awaiting the receipt of the Minister's note, which I now have, has caused some delay in acknowledging the receipt of your despatch and in responding to the accompanying resolutions and the request of Mr. Lindsley.

To be accurate in giving the views of the Japanese Government in this matter, I quote from a translation of the Minister's note as follows:-

'The Imperial Government is of the opinion that, though 'the rights of perpetual leases are registered as superficies 'according to the above mentioned Imperial Ordinance (No. 329) 'such action is not in violation of the treaty; because it is 'provided in Art. 45 of the Law for the Operation of the Civil 'Code that,' As to a superficies created for an alien or a ''foreign legal person the provisions of the Civil Code apply ''only so far as it is not otherwise provided by treaty or reg-''ulation'; therefore the right of perpetual lease, i.e., the 'right of superficies created for foreigners, is considered

'a kind of special superficies, and it is clear that it is 'not the right of superficies according to the Civil Code.

' Again, the interpretation given by the Imperial Govern- 'ment is, that even after the right of perpetual lease has 'been registered in accordance with the above Imperial Ordi- 'nance, the said title-deed has the same validity as before. 'However, that Imperial Ordinance was amended by Imperial Ord- 'inance No. 458, of December 27 of last year, as appeared in 'the Official Gazette, (Copy of which is herewith enclosed), 'in which the words 'perpetual lease' were specially inserted 'in brackets after the word Asuperficies', by which it is made 'still more clear that the so-called right of 'superficies' 'is the right of 'perpetual lease'. It is provided therein 'also that the transfer of a perpetual lease cannot be set up 'against a third party unless the fact of such transfer is en- 'dorsed upon the title deed, and that endorsements of transfer 'hitherto entered upon the title deed shall have the same ef- 'fect as an endorsement made in accordance with the above Or- 'dinance. The validity of the title deeds having thus been 'confirmed, there is, in my opinion, no room left for such 'doubts as are expressed above',

While the fact that the Ordinance does not simply state that these titles are to be registered as perpetual leases by omitting the term superficies altogether may be disappointing yet the fear expressed in the resolutions that the question may be raised in the courts as to whether such registration may not in effect impair the titles of perpetual leases, seems to be met by the assurances and interpretation given by the Imperial Government

and should such question by any possibility be so raised, treaty stipulations will control. No ordinance in respect to registration of titles can successfully impair rights specifically guaranteed by treaty; and in registering titles as prescribed by the Ordinance of December 27 (No. 458) last, American citizens do not lose thereby any treaty right in respect to property so registered, the titles to which were originally guaranteed by the Imperial Government.

On communicating to American holders of perpetual leases in Yokohama what has been done the last four months concerning the registration of their land titles, I am confident that they will appreciate the fact that I have not been unmindful of their interests or have failed to make proper representations to the Imperial Government in their behalf in respect of their property rights as guaranteed by treaty.

Having already, before the receipt of the resolutions accompanying your despatch, in conversation with the Minister of Foreign Affairs, informally made reference to them as published in the newspapers, I do not see how I can do more at this time, or hereafter, than I have already done, unless some additional reason should appear requiring further representations to the Imperial Government, or unless so instructed by Your Government, which has full information in respect to this matter.

I am, Sir,

Your obedient servant,

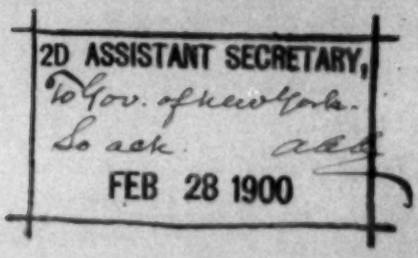
[Signed] A. E. Buck.

UNITED STATES LEGATION,
TOKIO.

No. 399.

February 6, 1900.







Mr. Buck

to the Secretary of State.

Subject:

Expenses in arrest etc. of Alba M. Kent, Jr.

UNITED STATES LEGATION,
TOKIO.

No. 399. February 6, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to enclose herewith the statement of account for expenses incurred by the Japanese Government in the arrest, detention, and examination of Alba M.Kent, Jr., an American fugitive criminal,which shows the total amount as one thousant two hundred and twenty-eight yen and sixty-four sen (Yen 1228.$\frac{64}{100}$).

The Minister for Foreign Affairs has today forwarded this bill of expenses to me, with the request that the amount be paid by my Government in accordance with Article VIII of the Extradition Treaty existing between the United States and Japan.

I have the honor to be,

Sir,

Your obedient servant,

J. E. Buck

Enclosure:

Statement of expenses, as above.

Enclosure with Mr Buck's No 399, dated February 6th, 1900.

1. Expenses incurred at the Public Procurators' Office of Yokohama District Court.

	Yen
Expenses for preparing two copies of Warrant of arrest with translation	20.00
Expenses for preparing three volumes of Examination Report	60.00
Allowance to the stenographers of Examination for three times	15.00
Charges for translating documents concerned from English into Japanese, and vise versa	27.50
For interpreters of Examination for three times	70.00
Expenses for drawing up and copying documents concerned	48.25
Expenses of research	120.00
Total	360.75

2. Expenses incurred at Kanagawa Prison for 59 days' confinement from Sept. 27 to Nov. 25, 1899.

	Yen
For interpreters temporarily employed ten times (20 yen per time)	200.00
For translating twenty-four letters (5 yen per letter)	120.00
Carfare	.40
For bathing, four times (25 sen per time)	1.00
For messengers hired fifteen times (40 sen per time)	6.00
For medicines (liquid for 8 days, powder for 1 day and external application for 4 days)	1.32
For bedding hired for 59 days (15 sen per day)	8.85
For toilet paper 300 sheets	.51
Expenses of confinement for 59 days (1.20 per day)	70.80
Allowance to the guards for transporting the criminal	2.00
For safe keeping of the effects of the criminal for 59 days (30 sen per day)	17.70
Total	428.58

3. Expenses incurred at the Police Department of Kanagawa-Ken.

Traveling expenses of Police officers (one Sergeant and two Policemen) from Yokohama to Kamiku Isshiki village, Nishi Yatsushiro District, Yamanashi Prefecture	64.36
For letters and telegrams sent to various localities by the Police Department of Kanagawa-Ken and Kagacho-Police Station of Kanagawa-ken	30.25
Expenses of transporting the criminal from the place of arrest to Kagacho Police Station, thence to Yokohama District Court, and from the latter to Kanagawa Prison	10.75
Expenses of research	250.00
For interpreters	50.00
Total	405.36

4. Expenses incurred at the Police Department of Yamanashi-ken.

Traveling expenses for a Police Sergeant and a Policeman from Ichikawa Police Station to Kamiku Isshiki Village Nishiyatsushiro District	13.95
Expenses of research	20.00
Total	33.95
Grand Total	1,228.64

TELEGRAM RECEIVED IN CIPHER.

Dept. Feb 12

From Tokio,

February 10, 1900.

Received 11.58 P.M.

Secretary of State,

Washington.

I am informed by Japanese Government existing concession expiring in December, 1902, to be renewed. other Governments concerned consenting, prevents Government of Japan joining with the Government of the United States in laying cable to connect Luzon with Formosa. The same concession prevents operation by Japanese Government of a cable between Formosa or other Japanese island and a Chinese port.

BUCK

by Chief Clerk.

February 12, 1900 189 , 9.28 A.M.

MAR 10 1900
BUREAU

UNITED STATES LEGATION,
TOKIO.

No. 400.

February 12, 1900.

INDEX BUREAU
REC'D
9 MAR 1900
DEPT. OF STATE

1/57 Mar
269 1/2
2d 1/23

Ditto
Mch. 13
C

2D ASSISTANT SECRETARY,
Copy to Secy of War, referring to his letter of ___ - requesting that inquiry to be made
Note. MAR 10 1900

Feb 12 1900 Mar

Mr. Buck

to the Secretary of State.

Subject:

Japan's Cable Concessions.

UNITED STATES LEGATION,
TOKIO.

No. 400.

February 12,1900.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to append on overleaf the translation of my cipher telegram of the 10th instant giving the terms of the concessions granted by Japan for the laying and operating of submarine telegraph lines between the islands of Japan and the Asiatic coast and its islands.

I also have the honor to enclose herewith a copy of a note received from the Japanese Minister of Foreign Affairs, which, in answer to your telegraphic inquiries, conveys to me the information sought, which was embodiend in my telegram to you of the 10th instant.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

Enclosure:

Viscount Aoki to Mr. Buck, February 8,1900.

(Over)

(Telegram)

Tokio, February 10,1900.

Secstate, Washington.

I am informed by Japanese Government existing concession expiring in December 1902 to be renewed other Governme concerned consenting prevents Government of Japan joining with th Government of the United States in laying cable to connect Luzon Formosa. The same concession prevents operation by Japanese Gover ment of a cable between Formosa or other Japanese Island and a Chinese port.

Buck.

Enclosure 1 with Mr. Buck's No. 40.

(Copy.)

No. 1. Foreign Office, Tokio.

The 8th day of the 2nd month,

the 33rd year of Meiji.

(February 8,1900.)

His Excellency

A. H. Buck,

etc., etc., etc.

Monsieur le Ministre,

I have the honor to acknowledge the receipt of Your Excellency's Note of the 26th ultimo, relative to the subject of laying a telegraphic cable to connect Formosa with the island of Luzon and another cable between other Japanese islands and a Chinese port.

I beg to state in reply that on the occasion of laying the telegraphic cable between Nagasaki, Shanghai and Vladivostock, the Imperial Government stipulated in the concession granted to the Great Northern Telegraph Company of Denmark on December 28th, 1882, that for the period of twenty years they shall not construct any Government cable nor shall they grant concession to any enterprise other than the said company to lay cables connecting this Empire with other Asiatic countries or their neighboring islands(Hongkong, Islands of Luzon etc). While the term of this concession will expire on December 27th,1902, there is a provision to the effect that if the other Governments concerned would agree to extend the

the term of the concession for another period of ten years, the Imperial Government should have to do the same.

It is with regret that I have to acquaint Your Excellency that under the circumstances the Imperial Government are unable during the stipulated term either to construct any Government cable or to grant concession to lay private cables between this Empire and China or the Island of Luzon.

I avail myself etc.

(Signed) Viscount Aoki Shuzo,

Minister for Foreign Affairs.

DIPLOMATIC,
MAR 20 1900
BUREAU.

No. 401.

UNITED STATES LEGATION,
TOKIO.

February 20, 1900.

INDEX BUREAU
REC'D.
19 MAR 1900
DEPT. OF STATE

TO ASSISTANT SECRETARY,
Ack & file.
MAR 19 1900

Mr. Buck

to the Secretary of State.

Subject:

Failure of the Government's Religions Bill.

UNITED STATES LEGATION,
TOKIO.

No. 401.

February 20,1900.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to report that the Government's bill regulating religions, a copy of which was enclosed with my No. 390 of date December 21,1899, failed to obtain a majority in the House of Peers.

A vote was taken on the 17th instant and stood 100 for and 121 against the measure.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

UNITED STATES LEGATION,
TOKIO.

No. 402.

February 20, 1900.

DIPLOMATIC,
MAR 20 1900
BUREAU.

INDEX BUREAU
REC'D.
19MAR1900
DEPT. OF STATE

2D ASSISTANT SECRETARY,
Ack. & file. aas
MAR 19 1900

Mr. Buck

to the Secretary of State.

Subject:

Departure of Prince Kanin on an European tour.

No. 402.

UNITED STATES LEGATION,
TOKIO.

DIPLOMATIC,
MAR 20 1900
BUREAU.

February 20, 1900.

INDEX BUREAU
REC'D.
19 MAR 1900
DEPT. OF STATE

2D ASSISTANT SECRETARY,
Ack. & file.
MAR 19 1900

Mr. Buck

to the Secretary of State.

Subject:

Departure of Prince Kanin on an European tour.

UNITED STATES LEGATION,
TOKIO.

No. 402.

February 20, 1900.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to inform you that H. I. H. Prince Kanin, head of one of the collateral branches of the Imperial family, left Japan on the 17th instant for an extended European tour. He will return to his country by the way of Siberia.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

No. 403.

UNITED STATES LEGATION,
TOKIO.

DIPLOMATIC BUREAU.
MAR 20 1900

February 20, 1900.

INDEX BUREAU
REC'D.
19 MAR 1900
DEPT. OF STATE

Dispo
Mch. 22
C

2D ASSISTANT SECRETARY,
Copy to Committee For. Rels. Senate
Copy to Secy of War.
Ack + file.
MAR 19 1900

Mr. Buck

to the Secretary of State.

Subject:

Representation on the establishment of a Pacific cable.

UNITED STATES LEGATION,
TOKIO.

No. 403.

February 20, 1900.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to enclose herewith translation of a representation urging the Government to give its support to the project advanced by the United States for the laying of a trans-Pacific cable, introduced in the Lower House of the Diet by Sho Nemoto, a Liberal Representative.

The representation was referred to a committe without discussion, and though there ~~is~~ appears to be no opposition to the measure, I do not think any further action will be taken during this session of the Diet.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

Inclosure:

Translation of representation as above.

Enclosure with Mr. Buck's No. 403.

Translation.

RESOLUTION CONCERNING THE CONSTRUCTION OF A SUBMARINE PACIFIC TELEGRAPHIC CABLE.

(Introduced by Hon. S. Nemoto, in the House of Commons, February 2, 1900).

Our national policy is to encourage the development of our country. Plans for the encouragement of our foreign trade are therefore of the utmost importance, and to that end the means of communication must first of all be completed.

The United States is about to undertake the work of laying a submarine telegraphic cable in the Pacific Ocean. The President of the United States in his recent message to Congress, reported that the Japanese Government had expressed their hearty approval of the plan. If that be true, I am convinced that our Government realizes the ~~the~~ importance of this enterprise to our country and I hope that they will immediately plan to take the necessary measures in order that this opportunity for completing our means of communication may not be lost.

UNITED STATES LEGATION,
TOKIO.

Mr. adee

No. 404.



February 21, 1900.

Mr. Buck

to the Secretary of State.

Subject:

Mr. A.M.Tracey Woodward's application for citizen's passport.

UNITED STATES LEGATION,
TOKIO.

No. 404. February February 21, 1900.

Hon. John Hay,

Secretary of State,

Washington, D.C.-

Sir:-

I have the honor to state that on December 26th last I received from the United States Consul at Kobe, an application in duplicate for a citizen's passport for Mr. A.M.Tracey Woodward, of date the 22nd of that month.

The application (encl. No.I) showed that Mr. Woodward was born in South Africa, of American parents, and is now 24 years of age; that he had never been in the United States and had no domicile there; his occupation was not mentioned, and his intention to return to the United States was stated to be "within my (his) lifetime". The seal of the Consulate had not been affixed to the application, presumably by oversight.

The application was accompanied by an expired passport (encl. No. 2) issued by the United States Minister at Peking, apparently soon after Mr. Woodward had reached his majority.

On returning the application to Mr. Lyon I pointed out the above mentioned deficiencies in the evidence and expressed the hope that Mr. Woodward might be able to renew his application in harmony with the requirements of the Department of State as set forth in the application forms, which I had no authority to change.

On the 10th ultimo I received a second despatch from Mr. Lyon, enclosing a letter to me from Mr. Woodward (encl. No.3) from which I inferred that the latter was acting in good faith and upon the strength of which I invited him to renew his ap-

plication on the lines indicated therein.

On the 8th instant I received another application in duplicate (encl. No. 4) through Mr. Lyon, made out in the same form as the first application which had been refused by me. Upon referring the application again back to Mr. Lyon for an explanation he informed me that "in making out this second ap-"plication Mr. Woodward concluded that as the spaces had been "filled at the Legation by dashes, you (I) did not require any "entry therein. The facts are ---------- -Mr. Wood-"ward cannot make affidavit that he is domiciled in the United "States, that his permanent residence is in any one of the "States etc./ as he has never even been in the United States".

My attention has since been called to the fact that the business letter head used by Mr. Woodward in his communication to me is that of an English firm, which to my mind is suggestive as to the value of the statements made in the said communication.

I therefore have the honor to report the case to the Department taking no further action unless instructed to do so.

I have the honor to be,

Sir,

Your obedient servant,

H. E. Buck

Encl. I.- First application for passport

Encl. 2.- Expired citizen's passport

Encl. 3.-- Mr. Woodward's letter to Mr. Buck

Encl. 4.- Second application for passport.

Encl. No. 1 with Dupl. No. 2404

[Edition of 1889.]

(Form No. 176.)

NATIVE.

Fee for Passport, - - - $1.00
Fee for filling out application in duplicate, - - .50
Fee for administering oath in duplicate, - - .50

No..... Issued,....., 18.....

I, S. M. Tracy Woodward..., a native and loyal citizen of the United States, hereby apply to the Legation of the United States at Tokio for a passport for myself, ~~accompanied by my wife....., and minor children as follows:~~ ....., ~~born at....., on the.....day of....., 18...~~, and.....

I solemnly swear that I was born at St. André, Réunion Island, South Africa ~~the State of~~ ....., on or about the 19th day of April, 1876; that my father is a...born.....citizen of the United States; that I am domiciled in the United States, my permanent residence being at....., in the State of ....., where I follow the occupation of .....; that I left the United States on the.....day of....., 18....., and am now temporarily sojourning at Kobe, Japan.....; that I am the bearer of Passport No 1127 issued by the U.S. Minister at Peking on the 10th day of December....., 1897; that I intend to return to the United States within any lifetime.....with the purpose of residing and performing the duties of citizenship therein; and that I desire the passport for the purpose of travelling.....

OATH OF ALLEGIANCE.

Further, I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely, without any mental reservation or purpose of evasion; So help me God.

S. M. Tracy Woodward

Subscribed

Legation of the United States at Yokohama, Japan

Sworn to before me, this 22nd day of Dec., 18 99

[signature]

DESCRIPTION OF APPLICANT

Age: 24 years.	Mouth: small
Stature: 5 feet 5 inches, Eng.	Chin: strong
Forehead: high	Hair: chestnut
Eyes: hazel	Complexion: fair
Nose: broad	Face: oval

IDENTIFICATION.

Kobe, Decemb. 22nd, 1899

I hereby certify that I know the above-named S. M. Tracy Woodward personally, and know him to be a native-born citizen of the United States, and that the facts stated in his affidavit are true to the best of my knowledge and belief.

[signature]

[ADDRESS OF WITNESS.] Kobe, Japan

Note.—This form is to be filled out in duplicate, one copy being retained on the files of the Legation and the other forwarded with the quarterly returns to the Department of State. It may be so filled out by the applicant, in which case no fee therefor is chargeable.

Enclosure No. 2 with
Am. Cons's No. 404

GOOD ONLY FOR
TWO YEARS FROM DATE.

LEGATION
OF THE



United States of America
AT

Peking

To all to whom these presents shall come Greeting:

Description.

Age 22 *Years* -
Stature 5 *Feet* 4 *Inches Eng.*
Forehead high
Eyes hazel
Nose broad
Mouth small
Chin strong
Hair chestnut
Complexion fair
Face oval

Signature of the Bearer.

A. Tracy Woodward or
A. M. Tracy Woodward

I, the undersigned, Envoy Extraordinary and Minister Plenipotentiary of the **United States of America** hereby request all whom it may concern to permit A. Tracy Woodward a Citizen of the United States safely and freely to pass, and in case of need to give him all lawful Aid and Protection.

Given under my hand and the Seal of the Legation of the United States at Peking the 10th day of December in the year 1897 and of the Independence of the United States the one hundred and twenty-second.

Charles Denby

No 1127

發給執照事案據和約內載美國人准聽持照前往內地各處游歷等因本大臣茲照前條繕發游歷執照給本國人胡德華收執合請大清文武員弁見此執照務須放行俾該民聽便游歷不得留難攔阻遇有事故並望隨時保護幫助須至執照者

右 行 執照

光緒貳拾柒年拾壹月 日發

大清欽命順天府

第壹仟壹百貳拾柒號

加印照行

貳拾伍

限用貳年

Encl. No. 3 with
Am. Buck's No. 404.

Copy.

R. D. Sassoon & Co.

Telegraphic Address, Kobe, January 5, 1899.

"Eliahoo, Kobe" .

Alfred E. Buck,

etc., etc., etc.

Court of Yedo.-

Sir:

Having been informed by Mr. S.S.Lyon, U.S.Consul here, that my application for a citizenship passport was not in complete order, I beg to say that with regard to my permanent residence in the United States I am at loss what to state. I was born of American parents in South Africa and have never been over to the U.S. although expecting to go there shortly. My relatives all come from Boston, and notwithstanding that I cannot arbitrarily say my permanent residence is in Boston, yet it is my desire when I go over to the States to domicile there. I cannot say how the last application was made in Shanghai as the vice-Consul there filled the required items.

I would therefore be under a great obligation if you would kindly make a suggestion to overcome the above difficulty.

I am, Sir,

Yours faithfully,

Sgd A.M.TRACEY WOODWARD.

Duplicate

Encl. No. 4 with Mr. Rusk's No. 404,

(FORM NO. 176.)

EDITION OF 1899.]

NATIVE.

Fee for Passport, - - - $1.00
Fee for filling out application in duplicate, - - .50
Fee for administering oath in duplicate, - - .50

No.....

ISSUED,....., 18.....

I, A. M. Tracy Woodward, a native and loyal citizen of the United States, hereby apply to the Legation of the United States at Tokio for a passport for myself, ~~accompanied by my wife~~, ~~and minor children as follows~~: ....., ~~born at~~, ~~on the~~ ~~day~~ of ....., 18....., ~~and~~

I solemnly swear that I was born at St. André Réunion Island in ~~the State of~~ South Africa, on or about the 17th day of April, 1876; that my father is a born citizen of the United States; that I am domiciled in the United States, my permanent residence being at ....., in the State of ....., where I follow the occupation of ....., that I left the United States on the.....day of....., 18....., and am now temporarily sojourning at Kobe Japan; that I am the bearer of Passport No 1124 issued by the U. S. Minister at Peking on the 10th day of December, 1897; that I intend to return to the United States within my lifetime with the purpose of residing and performing the duties of citizenship therein; and that I desire the passport for the purpose of traveling.

OATH OF ALLEGIANCE.

Further, I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely, without any mental reservation or purpose of evasion: SO HELP ME GOD.

A. M. Tracy Woodward

~~LEGATION~~ CONSULATE OF THE UNITED STATES AT Osaka and Hiogo Japan

Sworn to before me, this 27th day of December, 1899

James A. Logan
U.S. Consul

DESCRIPTION OF APPLICANT

Age: 24 years.	Mouth: small
Stature: 5 feet, 5 inches, Eng.	Chin: strong
Forehead: high	Hair: chestnut
Eyes: hazel	Complexion: fair
Nose: broad	Face: oval

IDENTIFICATION.

Kobe, February 5th, 1900

I hereby certify that I know the above-named A. M. Tracy Woodward personally, and know him to be a native-born citizen of the United States, and that the facts stated in his affidavit are true to the best of my knowledge and belief.

J. Ritchie

[ADDRESS OF WITNESS.] Kobe, Japan

NOTE.—This form is to be filled out in duplicate, one copy being retained on the files of the Legation and the other forwarded with the quarterly returns to the Department of State. It may be so filled out by the applicant, in which case no fee therefor is chargeable.

DIPLOMATIC,

RECEIVED 1900

BUREAU.

TELEGRAM RECEIVED IN CIPHER.

Arr'd by cable Feb. 24, 1900

From Tokio,

February 22, 1900.

Received 10.30 P.M.

Confd. Feb. 27

3rd. ASST. SECRETARY. FEB 23 1900

Secretary of State,

Washington.

Herod requests leave of absence. Has received a telegram wife ill California. I agree.

(Not signed.)

by Chief Clerk

February 23, 1900, 9 27 A.M.

DIPLOMATIC,

UNITED STATES LEGATION,
TOKYO, JAPAN.
MAR 20 1900

BUREAU.

2D ASSISTANT SECRETARY,
Ack approving Mr. Buck's inquiries
Copy to War & Navy Depts
for their information
MAR 19 1900

No. 405.

February 22, 1900.

INDEX BUREAU
REC'D.
5 MAR 1900
DEPT. OF STATE

Mr. Buck

to the Secretary of State.

Subject:

Reported cargo of munitions of war for Philippine insurgents.

No. 405.

UNITED STATES LEGATION,
TOKYO, JAPAN.

February 22,1900.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to enclose herewith copies of the correspondence I have had with the Japanese Minister of Foreign Affairs and the Naval Attaché of this Legation concerning the Japanese vessel "Nunobiki-maru" which was abandoned off the Chinese coast in July last year. It was alleged that the steamer was bound to the Philippine Islands with a cargo of munitions of war for the insurgents.

You will observe that Viscount Aoki mentions that the vessel carried four passengers without giveng their nationality. In a conversation had previously with the Minister, he informed me that these men were Philippinos.

I have the honor to be,

Sir,

Your obedient servant,

Jno. Buck

Enclosures:

1. Mr. Buck to Viscount Aoki,, Nov. 15,1899.
2. Viscount Aoki to Mr. Buck, February 22,1900.
3. Lieutenant Key to Mr. Buck, November 13,1899.

Enclosure / with Mr. Buck's No. 405

(Copy)

No. 172. Legation of the United States,

Tokio, November 15,1899.

His Excellency

Viscount Aoki Shuzo,

H. I. J. M. Minister of Foreign Affairs.

Sir:-

Referring to our conversation a few weeks ago in respect to the Japanese steamer "Hunobiki-maru, which was reported lost near Saddle Island in July last, and which, it was rumored, had on board munitions of war for the insurgents of the Philippine Islands, I have the honor to submit to Your Excellency herewith a copy of a communication from Lieutenant A. L. Key, the Naval Attaché of this Legation, who, while on a tour in the discharge of his official duties, incidentally obtained the information therein contained, confirming the reports referred to in so far as that the "Hunobiki-maru" had on board gunpowder and other munitions of war obtained at Moji.

In view of Your Excellency's remarks during the conversation referred to, that it was possible that some old ammunition might have been smuggled aboard the vessel before leaving port- though the officials of the Government, under instructions immediately givenupon its being rumored that she carried arms and ammunition, had made investigations and had been unable to obtain any conclusive

conclusive information to that effect,- I have thought it proper that Your Excellency should have the definite statement of Lieutenant Key as a basis for further inquiry that it might be thought proper to make if any. The evidence obtained by Lieutenant Key, though of a private and confidential nature, if deemed necessary in prosecuting further investigations, can be communicated to Your Excellency.

About one year ago, reports coming to me of Japanese vessels' being supposed to be engaged, as it was stated, in shipping arms and other munitions of war to the Philippine insurgents, I was informed by Mr. Tsudzuki, then Vice Minister of Foreign Affairs, that it was impossible to obtain and ship arms and ammunition from Japan without the knowledge of the local officials of the Government. Supposing that to be true, then some official or officials must be cognisant of the fact of the "Nunobiki-maru's" taking on board gunpowder or other war materials.

It appears that the vessel cleared at Moji for Formosa, and if it was intended to land the cargo in Formosa, there would seem to have been no necessity for smuggling on board gunpowder or other contraband goods; but in such case the carrying of such goods would probably be legitimate and they would be entered on the ship's manifest in the customary manner, and there would be no difficulty in learning of what the cargo consisted.

I am confident that Your Excellency is as much interested and as desirous as I am that no contraband goods be supplied to the

the Philippine insurgents from Japan, and will employ every means possible to prevent, and if gunpowder and other munitions of war have been or should be shipped surreptitiously from Japan to the Philippine insurgents, to discover the guilty persons and cause them to be punished as they may deserve, and as an example to others who otherwise might attempt to smuggle arms and ammunition into the Philippine Islands.

I avail myself etc.

(Signed) A. E. Buck.

Enclosure 2 with Mr. Buck's No. 405.

Translation.

No. 4.

Department of Foreign Affairs,

Tokio, the 21st day, the 2nd month,

the 33rd Year of Meiji.

(February 21,1900.)

His Excellency

A. H. Buck,

etc., etc., etc.

Monsieur le Ministre,

I have the honor to acknowledge the receipt of Your Excellency's Note of the 15th of November last, relating to the rumour that the steamer "Nunobiki-maru" which was lost near Saddle Island off Shanghai in July,1899, had on board gunpowder and other war materials for the insurgents of the Philippine Islands.

In reply I beg to state that upon immediately making communication to the authorities directly concerned I have ascertained facts which can be summarized as follows: That the said "Nunobiki-maru" belonged to Mr. Nakamura Yaroku of Tokio; that she sailed from Kobe on July 13th, 1899, Captain Ishikawa Tsutaye and a crew of thirty-four men on board; that at Moji she took on board about five hundred tons of coal for her own use and ten three hundred tons of gunpowder besides four passengers: that she sailed from Moji on the 17th of July, and touched at Nagasaki which port she left on the 18th reporting to the authorities that she was bound for Shanghai; and that on the morning of the 21st she sunk off

off Shanghai in consequence of heavy weather.

I have durther ascertained that the steaner under consideration belonged th the Mitsui Bussan Kaisha till the 4th of July last: that on the 5th following she was sold to Mr. Nakamura Yaroku at Kobe: that she had been in use as a coasting vessel while owned by the Mitsui Bussan Kaisha and that she was also employed as such after her ownership was transferred to Mr. Nakamura Yaroku until she arrived at Nagasaki on the 18th of July, where she had herself officially qualified for foreign navigation; that the gunpowder she had on board was the same that was sold to C. Meinberger and Co., Yokohama, by Okura Yonekichi, a gunpowder merchant at Tokio and that it was shipped at Moji; that at the time of its shipping, the steaner being described as a coasting vessel and the port of destination being Taiwan, the customs authorities had nothing to do with her; and that even after she was duly qualified for foreign navigation at Nagasaki nothing suspicious was observed about her, the port of destination being reported as Shanghai.

The authorities inform me that they have so far been unable to ascertain whether or not the steaner was intended for supplying the Philippine insurgents with gunpowder.

It may be observed in this connection that the Imperial Government have issued instructions to the prefectural and customs authorities to exercise particularly strict vigilance in the future with regard to cases like the one in question.

I avail myself etc.

(Signed) Viscount Aoki Shuzo
Minister for Foreign Affairs.

Enclosure 3 with Mr. Buck's No. 405.

(Copy)

United States Legation, Tokio.

Naval Attaché.

The Honorable

A. E. Buck,

Minister of the United States,

Tokio, Japan.

Sir:

The vernacular press having charged the Japanese steamer "Nuno-biki maru" with having attempted to smuggle war materials from Japan to the Philippine Islands I considered it my duty, during a late tour of inspection through southern Japan, to endeavor to learn the foundation for such charges.

By my investigations at Kobe, Moji and Nagasaki, I was able to satisfactorily establish the following facts concerning the "Nunobiki-maru":-

She sailed from Kobe July 13th, Captain Tsutaye in command, having cleared at the customs as being owned by the Mitsui Bussan Kaisha, with a crew of thirty-four men and five passengers, one of the passengers was Mr. Y. Nakamura, who lives at No. 18 Nakano machi, Tokyo; the other four are reported to have been Filipinos.

The "Nunobiki-maru" arrived at Moji on the morning of July 15th and was immediately transferred from the ownership of the Mitsui Bussan Kaisha to Mr. Y. Nakamura and took on board five hundred tons of coal and a considerable quantity of gun powder and other

other munitions of war; all the arrangements for which were made by Mr. Nakamura, the vessel having no regular agents at Moji.

She cleared at the Moji customs for Formosa via Nagasaki, and was entered at the customs as a coasting steamer, no record being made of the fact that she had war materials on board.

She sailed from Moji on the morning of the 17th of July, touched at Nagasaki, from which port she sailed on the 18th of July, was reported as deserted on July 21st, near Saddle Island, on account of heavy weather, her crew and passengers leaving her in three boats. Two of the boats with their inmates were picked up, one by the steamer "Kiukiang" and one by the steamer "Menelaus". The men picked up by the last named steamer were landed at Kobe; their names are as follows:- N. Higashi (2nd mate), R. Miyama(2nd engineer), T. Murakami I. Kikukawa, M. Yamashita, S. Nakashima, T. Muto, and a boy(name unknown).

The boat containing the captain, passengers, and about ten of the crew, so far as I know, has not been reported.

I consider it my duty to place the above facts before Your Excellency officially, for such action as you may deem necessary and proper.

Very respectfully,

(Signed) A. L. Key, Lieutenant, U. S. Navy,

Naval Attaché.

UNITED STATES LEGATION,
TOKIO.

No. 406.

DIPLOMATIC,
MAR 20 1900
BUREAU.

February 22, 1900.

INDEX BUREAU
REC'D.
19MAR1900
DEPT. OF STATE

2D ASSISTANT SECRETARY,
Ack + file -
MAR 19 1900

[Leave was granted by cable Feb. 24. 1900 ada.]

Mr. Buck

to the Secretary of State.

Ackn
Apl. 2
C

Subject:

Mr. Herod requests leave of absence.

UNITED STATES LEGATION,
TOKIO.

No. 406

February 22, 1900.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to confirm on overleaf my cipher telegram of to-day's date, conveying the request of Mr. Herod, Secretary of Legation, for a leave of absence with permission to return to the United States.

Mr. Herod has been informed by cable if the illness of his wife in California, and is naturally anxious to join her as soon as possible.

I have the honor to be,

Sir,

Your obedient servant,

W. W. Buck

(Over)

(Telegram).

Tokio, February 22,1900.

Secstate, Washington.

Herod request leave of absence, has received a telegram wife ill California. I agree.

Buck.

UNITED STATES LEGATION,
TOKIO.

DIPLOMATIC
MAR 20 1900
BUREAU.

February 23, 1900.

INDEX BUREAU
REC'D.
1 9 MAR 1900
DEPT. OF STATE

Copy to Director of the Census. April 10 C.

Mr. Buck,

to the Secretary of State.

Subject:

Information desired by Census Office of the United States.

UNITED STATES LEGATION,
TOKIO.

February 23, 1900.

Honorable John Hay,

Secretary of State,

Washington, D.C.-

Sir:

Replying to your circular instruction of the 20th January directing me to obtain certain information for the use of the Census Bureau of the United States, I have the honor to state that upon applying to the Statistical Bureau of the Japanese Government for the information desired I was informed that that Bureau was in direct communication with the Census Office and was preparing to send as complete a set of reports covering the period as it was possible to obtain.

I have therefore concluded that it would be unnecessary for me to take any further steps in the matter at present.

I have the honor to be,

Sir,

Your obedient servant,

J. E. Buck

UNITED STATES LEGATION,
TOKIO.

No. 407

DIPLOMATIC,
MAR 28 1900

February 24, 1900.

INDEX BUREAU
REC'D.
28 MAR 1900
DEPT. OF STATE

Mr. Buck

to the Secretary of State.

Subject:

Confirming telegram of February 24,1900.

No. 707

UNITED STATES LEGATION,
TOKIO.

February 28,1900.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

I have the honor to confirm on overleaf your telegram of the 24th instant by which leave of absence is granted to Mr. Herod, Secretary of this Legation.

I have the honor to be,

Sir,

Your obedient servant,

W. W. Rockhill

(Over.)

(Telegram)

Washington, February 24,1900.

Buck, Minister, Tokio.

Herod granted leave.

Hay.

MAR 28 1900
BUREAU.

UNITED STATES LEGATION,
TOKIO.

No. 408.

March 8, 1900.

INDEX BUREAU
REC'D
28 MAR 1900
DEPT OF STATE

Rec'd Mch. 30

2D ASSISTANT SECRETARY,
To Secretary of War, answering
previous request
Asst. MAR 28 1900

Mr. Buck

to the Secretary of State.

Subject:

Japan's Cable Concessions.

UNITED STATES LEGATION,
TOKIO.

No. 408

March 2,1900.

Jan 5 for Mar.

Honorable John Hay,

Secretary of State,

Washington.

Sir:-

Referring to your Instruction, of date January 12,1900, No. 268, directing me to obtain for the use of the Chief Signal Officer of the Army certain information relating to Japan's concessions to the Great Northern Telegbaph Company or to other companies if any had been granted, I have the honor to enclose herewith copy of a Note received from the Japanese Minister for Foreign Affairs giving the information desired.

I understand that the Japanese Government is unwilling to furnish a certified copy of the concession to the Great Northern Company as certain articles are secret and confidential.

The Note dated February 8th, 1900, referred to by Viscount Aoki was enclosed to the Department in my No. 400 of February 12,1900)

I have the honor to be,

Sir,

Your obedient servant,

E. H. Buck

Enclosure:

Viscount Aoki to Mr. Buck, March 1,1900. Copy.

DIPLOMATIC

Enclosure with Mr. Buck's No. 408.

(Copy)

Translation.

No. 3. Department of Foreign Affairs,

Tokio, the 1st day, the 3rd month,

the 33rd year of Meiji.

(March 1, 1900.)

His Excellency A. M. Buck

etc., etc., etc.

Monsieur le Ministre,

I have the honor to acknowledge the receipt of Your Excellency's Note of the 14th ultimo relative to submarine cables between various islands of Japan and all points on the Asiatic coast in which Your Excellency asks for information as to the terms and duration of concessions, landing rights and other privileges granted by the Japanese Government to the Great Northern Telegraph Company and also for authenticated copies of concessions, landing rights or privileges, if such were ever granted to any other Company by the Japanese Government whether for cable communication with the mainland of Asia, the Philippine Archipelago, the United States or any islands in the Pacific Ocean.

I beg to state in reply that as to the concession granted to the Great Norther Telegraph Company and the duration thereof, the facts are as I stated in my Note to Your Excellency dated the 8th ultimo. As to the accessory privileges the following paragraphs

paragraphs may be quoted from the concession:-

"The Japanese Government reserves to itself the right, after "the determination of this concession, to conclude a new convention "with whoever and under whatever terms it may deem proper.

"Nevertheless the Company shall enjoy the right of preference "provided it accepts such new conditions as may be imposed by the "Japanese Government, and in any case the Company shall enjoy the "right to continue to work its cables in connection with the "Government Telegraphs."

With regard to cable communication between Japan and Corea, I beg to inform you that the Convention concluded between the Japanese and Corean Governments on March 5,1883, authorized the Great Northern Telegraph Company to lay a submarine cable between the two countries. By the same Convention the Corean Government is bound, for the term of twenty-five years counting from February 15,1884, not to establish telegraph lines in opposition to the said line nor to authorise other Governments or Companies to establish submarine cables.

I may add that, excepting those above mentioned, no concession, landing rights or other privileges have been granted by the Japanese Government to any other Government or Company with regard to telegraph lines connecting Japan whether with the mainland of Asia, the Philippine Archipelago, the United States or any islands in the Pacific Ocean.

I avail my self etc. (Signed) Viscount Aoki Shuzo,

Minister for Foreign Affairs.

DIPLOMATIC,
MAR 30 1900
UNITED STATES LEGATION,
TOKIO.
BUREAU.

No. 409.

March 3, 1900.

Seen by Gen Foster

INDEX BUREAU
REC'D.
28 MAR 1900
DEPT. OF STATE

2D ASSISTANT SECRETARY,
Ack & file.
MAR 30 1900

Mr. Buck

to the Secretary of State.

Subject:

Russian regulations detrimental to Japanese engaged in Saghalien fisheries: Japan's retaliatory measure.

UNITED STATES LEGATION,
TOKIO.

No. 409. March 3, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to inform you that the Russian authorities recently issued Fishery Regulations for the Island of Saghalien whereby a prior right in all fishing privileges is conferred upon Russian subjects, not only in the case of initial enterprise, but notwithstanding interests of the Japanese long established.

As thousands of Japanese have been engaged in those fisheries during the last fourty or fifty years without being disturbed, the sudden change caused dissatisfaction. Accordingly, the Japanese Diet has passed as a retaliatory measure a bill by which an import duty of not to exceed 50% of their original value may be imposed, over and above the ordinary tariff, upon salt and smoked fish, and an import duty of not to exceed 50% of its original value upon fish manure—the rate and period of enforcement for each year to be fixed by Imperial Ordinance.

I learn that the Russian authorities, as a result, are to refrain this year from enforcing these new regulations to the detriment of the Japanese who have been engaged in those fisheries for so many years, thus giving time for investigating the matter. The Japanese law has not yet been promulgated.

Regulations issued by the Governor of the Amur District

in

in 1895 gave Russians a prior claim to all fishing privileges except in the case of vested interests, which were to be respected. But an enforcement of these new regulations would probably destroy the Japanese industry in those waters.

I have the honor to be,

Sir,

Your obedient servant,

J. E. Buck

UNITED STATES LEGATION,
TOKIO.

DIPLOMATIC,
MAR 28 1900
BUREAU.

No. ✕. March 3, 1900.

INDEX BUREAU
REC'D.
28 MAR 1900
DEPT. OF STATE

Did 00
Apl 2

2D ASSISTANT SECRETARY,
Ack, directing Mr. Buck to convey the President and Secretary's congratulations on this auspicious event, &c.
MAR 28 1900

Mr. Buck

to the Secretary of State.

Subject:

The betrothal of the Crown Prince of Japan.

UNITED STATES LEGATION,
TOKIO.

No. ✱ March 3, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

It has been officially announced that His Imperial Highness the Crown Prince is betrothed to Princess Sadako. The marriage will probably take place during next May.

The future Empress belongs to the Fujiwara family, one of the most ancient and historically famous . She has been educated at the Peeresses' School in Tokyo, an institution where the education of women is carried on very much upon western lines.

I have the honor to be,

Sir,

Your obedient servant,

Edw Buck

UNITED STATES LEGATION,
TOKIO.

DIPLOMATIC,
APR 14 1900
BUREAU.

No. 410. March 3, 1900.

INDEX BUREAU
REC'D
28 MAR 1900
DEPT. OF STATE

Apr. 17, 1900, Mailed to Mr. Buck three copies of Advance Sheets No. 704 Cons. Reports C.

Mr. Buck

to the Secretary of State.

PRINTED IN ADVANCE SHEETS NO. 704

Subject:

The Thirteenth Diet closed: its work.

UNITED STATES LEGATION,
TOKIO.

DIPLOMATIC,
APR 14 1900
BUREAU.

No. 410. March 3, 1900.

INDEX BUREAU
REC'D
8 MAR 1900
DEPT. OF STATE

Apr. 17, 1900, Mailed to Mr. Buck Three copies of Advance Sheets No. 704 Cons. Reports J.

Mr. Buck

to the Secretary of State.

PRINTED IN ADVANCE SHEETS NO. 704

Subject:

The Thirteenth Diet closed: its work.

UNITED STATES LEGATION,
TOKIO.

No. 410. March 3, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to inform you that the Thirteenth Session of the Japanese Diet ended on the 24th ultimo.

The session just closed was rather an uneventful one. There was very little legislation of special interest to foreigners. One such item was a change in the Mining Regulation by which mining privileges are to be extended to foreigners organized as juridical persons under Japanese law. This was suggested by the House of Representatives and may be regarded as a sign of a liberal attitude towards foreigners. And almost the only other was a bill passed for controlling foreign patent medicines.

The most important piece of legislation accomplished was the Law of Elections. By it the property qualification has been reduced from 15 yen to 10 yen (annual taxes); the urban representation has been increased from about 6% to about 20%, by making the representation per capita greater in cities; the system of uninominal unsigned ballots has been substituted for that of multinominal signed ballots used hitherto; and the size of electorates has been reduced so as to coincide with the prefectures. In the case of candidates for election the property qualification is abolished altogether. The passage of this important measure at the very end of the session is attributed to the personal influence of Marquis Ito,

and

and the efforts of the Government assisted by the Peers and by Mr.Hoshi in the Lower House.

I have the honor to be,

Sir,

Your obedient servant

W. O. Buck

DIPLOMATIC,
UNITED STATES LEGATION,
TOKIO. APR 7 1900
BUREAU.

No. 411.

March 13, 1900.

INDEX BUREAU
REC'D.
6 APR 1900
DEPT. OF STATE

Dis. No. 142
April 10.
C

2D ASSISTANT SECRETARY,
Copy all to Navy Dept for information
So ack.
APR 7 1900

Ans'd again April 27 C

Mr. Buck

to the Secretary of State.

Subject:

Question of saluting Russian Vice Admiral at Nagasaki.

UNITED STATES LEGATION,
TOKIO.

No. 411. March 14, 1900.

To the Honorable John Hay,
Secretary of State,
Washington.

Sir:

I have the honor to enclose herewith copies of correspondence consisting of the communications between Baron Rosen the Russian Minister, to Japan, and myself, also between Captain E.Longnecker, commanding the U.S.S.NEW ORLEANS and myself, in respect to an incident occurring at Nagasaki on Sunday the 25th ultimo concerning the question of a salute to the Russian Vice Admiral's flag on that day and paying official visits.

While this incident, as it appears to me, was a trifling one, not calling for diplomatic correspondence, the Russian Minister having made it the subject of an official communication, declaring that an opology to the Vice Admiral was due, for want, as he deemed, of compliance with international usage on the part of Captain Longnecker, upon obtaining the Captain's statement of facts, I gave such a reply as I felt justified in doing.

As my first note in reply to the Minister, much to my surprise, did not satisfy him and in consequence I received the second note from him implying a disbelief on his part that the Captain's statement was true, I felt constrained to express my confidence in the truthfulness of the statement and to place the fault of not observing the requirements of international courtesy upon the Vice Admiral.

I fully believe in the integrity of purpose of Captain Longnecker

Longnecker relating to the incident and his desire and effort to comply in all respects with the demands of the Navy Regulations and international courtesy.

I have forwarded to Admiral Watson, Commander-in-Chief of our Naval Forces in Asiatic waters, for his consideration a full transcript of the correspondence.

I have the honor to be,

Sir,

Your obedient servant,

J. C. Buck

Enclosures:

No.1. Baron Rosen to Mr. Buck, February 26th.

No.2. Reading of telegrams between Mr. Buck and Captain Longnecker.

No.3. No.3. Captain Longnecker to Mr. Buck, February 28th—March 8.

No.4. Mr. Buck to Baron Rosen, March 5th.

No.5. Baron Rosen to Mr. Buck, March 6th.

No.6. Reading of telegrams, Between Mr. Buck and Captain Longnecker.

No.7. Mr. Buck to Baron Rosen, March 8th.

Enclosure No. 1, with No. 411.

Baron Rosen to Hon. Buck, February 26, 1900.

Copy.

Legation Imperiale de Russie,

Tokio, le 14/26 Fevrier, 1900.

My Dear Colleague,

I received this morning a telegram from the Commander-in-Chief of our Squadron in the Pacific, Vice-Admiral Hiltebrandt, then with part of his fleet at anchor in Nagasaki roads (from which port he sailed later in the day for Port Arthur) in which he informs me of the following facts:

that yesterday February 25, at 8 A.M., the United States Cruiser "New Orleans" arrived at Nagasaki;

that the said Cruiser did not salute his, the Vice-Admiral's flag, as required by international usage, on the plea of it's being Sunday;

that the Commanding Officer of the "New Orleans" did not visit him, the Vice-Admiral, as equally required by international usuage;

and that he, the Vice-Admiral, thereupon declined to receive a salute after the lapse of twenty four hours.

It becomes my duty to bring these facts to your knowledge and, whilst convinced that the failure of the Commanding Officer of the "New Orleans" to comply in the present instance with the requirements of international usage was due to some misapprehension on his part of the meaning of the stipulations of the United States Naval Regulations in regard to saluting and visiting on Sundays, I venture to express the hope that you will agree with me that under the circumstances an apology is due to Vice-Admiral Hiltebrandt.

Accept, my dear Colleague, etc., etc.

sgd ROSEN.

To His Excellency,

Colonel A. E. Buck,
etc., etc., etc

Encl. No. 2 with No. 411

Copy.

Readings of Telegrams.

Mr. Buck to Captain Longnecker, February 27, 1900.

Commander Cruiser NEW ORLEANS, Nagasaki.

Russian Minister complains your failure to salute Vice-Admiral's flag Nagasaki, Sunday. Kindly wire particulars.

Captain Longnecker to Mr. Buck, February 28, 1900.

U.S.Minister, Tokio.

Russian Boarding Officer Sunday requested to inform Vice-Admiral that his flag would be saluted immediately after the national salute, if one was to be fired, and if not would be saluted immediately. Impossible to ascertain whether national salute would be returned until 8 P.M., Sunday. Eventually Synday Russian Flag Lieutenant came on board and informed me that Vice-Admiral requested me not to salute his flag. I explained in detail to Russian Flag Lieutenent that up to the time of his leaving the NEW ORLEANS, about 7:55 P.M., I had not been able to ascertain whether or not a national salute would be returned and told him to state these facts to the Vice-Admiral and ask if he would not withdraw his request. Flag Lieutenant stated that I could not get an answer Sunday night, but that if I sent an officer to the Russian Flagship at 7:45 A.M. Monday I would receive one. I sent an officer for this answer and the Vice-Admiral again requested that I would not salute his flag.

S.Minister, Tokio.

Further particulars by mail.

LONGNECKER

Mr. Buck to Captain Longnecker, March 1, 1900.

Commander NEW ORLEANS, Nagasaki.

In statement by mail cover additional complaint for not paying visit to Vice-Admiral.

BUCK.

Captain Longnecker to Mr. Buck, March 1, 1900.

U.S.Minister, Tokio.

Full details will be mailed at once ~~xxxx~~.Official call was made Monday morning by me.

LONGNECKER.

Captain Longnecker to Mr. Buck, March 2, 1900.

United States Minister, Tokio.

Omitted to state in letter that I informed the Flag Lieutenant we always saluted on Sunday when international courtesy required it.

LONGNECKER.

Encl. No. 3 with
Captain Longnecker's Ltr. No. 411,
February 28, 1900.

Copy.

U.S.S. "New Orleans", 2nd Rate

Nagasaki, Japan, Feb'y 28, 1900.

Sir:

I have the honor to enclose herewith a copy of the cipher message sent you this day from this port in answer to your cipher received last night.

2. The facts relating to this subject are as follows:- The NEW ORLEANS arrived in this harbor Sunday morning last, about 8 o'clock, and found the Russian and Italian Flagships in port, a Japanese Despatch vessel in drydock and a gunboat hauled out on the ways. After anchoring the Boarding Officers of the different vessels were received, among them being one from the Russian Flagship who spoke very little English; I endeavored to explain to him that as soon as I could ascertain from the authorities on shore whether a national salute to the Japanese flag could or could not be returned, I would salute the Vice-Admiral's flag immediately after the national salute, if one was to be fired, and if no national salute was to be fired I would salute the Vice-Admiral's flag immediately.

3. I received our Consul on board the NEW ORLEANS and asked him whether a national salute if fired here would be returned. He answered that about a year ago a United States vessel of war in this harbor fired a national salute which was not immediately returned. I then asked him if those conditions existed now; he stated that he did not know and I requested him when he returned on shore if he would ascertain the facts regarding this matter. An officer accompanying was instructed by me to bring off the Consul's answer if not delayed; the officer brought no answer. After waiting for some hours I sent an officer to the Consulate, it being then about 1:30 in the

afternoon, to get the desired information. He returned immediately and informed me that the Consul had gone to the country by rail and would not return until 4 P.M., when the same officer was sent again to the Consulate to obtain the information as soon as possible and return to the ship. He and the United Consul came on board about 8 P.M. with the information that if I fired a national salute the Japanese had no means of returning it.

4. I instructed the boarding officer who was sent to return the boarding visits to see the commanding officer of the Japanese Despatch Boat "Miyako" which was in the dry dock and ascertain from him if possible whether a national salute would be returned if fired by the NEW ORLEANS. This boarding officer informed me that the officer he communicated with was not sure whether it would be returned or not. This same officer later on in the evening informed me that he had communicated with a lieutenant on board the "Miyako" but had not seen the commanding officer. I sent him immediately to the "Miyako" to see the commanding officer if possible and to ask him for the desired information; he returned on board the NEW ORLEANS stating that the commanding officer of the "Miyako" was not on board but he saw the same officer he had seen in the morning who was not sure whether the salute would be returned or not.

5. About 7:30 the Russian Flag-Lieutenant came on board the NEW ORLEANS and stated that the Vice-Admiral requested that I would not fire his personal salute to his flag for the reason that it had been delayed so long. I then explained to the Flag Lieutenant that I had at that time two officers ashore endeavoring to find out whether a national salute if fired by the NEW ORLEANS would be returned; that up to that time, though seeking diligently this information ever since my arrival it

had not been obtained. I also explained to the Flag-Lieutenant that it would be impossible for me to fire any salute until I had determined whether a national salute would be returned if fired, and requested him to state to the Russian Vice-Admiral the peculiar conditions existing regarding this matter and to ask if he would not withdraw his request. He informed me that the Vice-Admiral was on shore this evening and could not be seen on this subject for an answer before morning and suggested that I have an officer at the Russian Flagship at 7:45 Monday morning to receive it. I then informed the Flag-Lieutenant that if I learned that the Japanese could not return the national salute I would salute the Vice-Admiral's flag at Colors Monday morning, provided the Vice-Admiral would withdraw his request. I sent the officer to the Russian Flagship Monday morning, who returned before eight o'clock with the information that the Vice-Admiral requested that I would not fire the personal salute to his flag.

6. It will thus be observed that it was impossible for me under the peculiar conditions herein referred to, to have fired the personal salute to the Vice-Admiral's flag on Sunday, and I had hoped that after having acquainted the Vice-Admiral with these facts through his Flag-Lieutenant that he would have appreciated the existing conditions and would have withdrawn his request not to salute his flag, as it was evident that there was no discourtesy either implied or intended by my action in this matter.

Very respectfully,

sgd E. LONGNECKER

Captain U. S. Navy, Commd'g

U.S.S. NEW ORLEANS .

To/

The United States Minister

Tokio, Japan.

No. 3.

Captain Longnecker to Mr. Root
March 1, 1900.

Copy.

U.S.S. NEW ORLEANS, 2nd Rate,

Nagasaki, Japan, March 1, 1900.

Sir:

In reply to your telegram of this date I have the honor to state that I made my official call on the Russian Vice-Admiral on Monday morning after Colors, which was the earliest time it could be made since my arrival in this port under the conditions existing at that time, it not being permissable under the Navy Regulations to make official visits before salute are fired, except where personal salutes are requested not to be fired, as in this case, and while the Colors are hoisted. When I came alongside the Russian Flagship Monday morning to make my official visit I was met at the lower platform of the companion ladder by a Russian officer who informed me that the Vice-Admiral was ill and could not receive me, and that the Captain was on shore. I handed my card to the officer and proceeded to call on the Italian Rear-Admiral to whom I explained the cause of the delay in firing his salute until 8 A.M. Monday, which was perfectly satisfactory.

2. I omitted to state in my letter yesterday that in conversation with the Russian Flag-Lieutenent over this matter on Sunday evening last, and upon mentioning the message to him, that I sent by the Russian Boarding Officer to the Vice-Admiral, as given in the second paragraph of said letter, he stated that this was not the message delivered, but instead reported "that I would salute the Japanese flag on Sunday and the Vice-Admiral's flag on Monday". My call on the Russian Vice-Admiral was not returned. The Russian fleet left the harbor at 12:45 P.M. that day.

Very respectfully,

sgd R. LONGNECKER

The United States Minister
Tokio, Japan.

No. 3.

Captain Longnecker to Mr. Buck
March 2, 1900.

Copy.

U.S.S. NEW ORLEANS, 2nd Rate,

Nagasaki, Japan, March 2, 1900.

Sir:-

1. I have the honor to state for your information that the Captain of the Port paid an official visit to the NEW ORLEANS Monday afternoon, the 26th day of February and stated that when the Japanese Cruiser "Miyako" came out of the dry dock she would return a national salute if one was fired. The "Miyako" came out of dry dock on the morning of the 28th February when I had a national salute of 21 guns fired with the Japanese Flag at the Main, which was returned by the "Miyako" gun for gun. The Italian Flagship immediately followed us in saluting the Japanese flag.

2. I mention this in order to show the necessity for obtaining this information when coming into this port, as I was informed on the evening of the day of my arrival here that the Japanese could not return a national salute if fired, which therefore requires more than ordinary caution in this matter.

Very respectfully,

sgd E. LONGNECKER,

Captain etc.

The United States Minister,

Tokio, Japan.

Captain Longnecker to Minister Buck

March 3, 1900.

No. 3.

Copy.

U.S.S. NEW ORLEANS, 2nd Rate,

Nagasaki, Japan, March 3, 1900.

Sir:

Referring to my letter of the 1st instant in reply to your telegram of the same date, relative to my official call on the Russian Vice-Admiral, I have the honor to state for your information that the word "permissable" used in said letter might not appear to be sufficiently explicit. I therefore have to state that official courtesies as laid down in the U. S. Navy Regulations are in the following sequence, viz:-

First:- Boarding Visits.

Second:- National Salute to the Flag of the port visited, provided the Captain is satisfied that the salute will be returned.

Third:- Flag Officers in the port to be saluted in the order of their superiority, as soon as the national salute has been disposed of.

Fourth:- Official call on Flag Officers in port.

Fifth:- No salutes shall be fired between sunset and sunrise,

2:- The Colors being hoisted at 8 A.M. the salutes are fired at that time or as soon thereafter as may be practicable.

3:- From the foregoing it will be observed that I followed the Navy Regulations in this matter.

Very respectfully,

sgd R. LONGNECKER,

Captain etc

The United States Minister,

Tokio, Japan.

Encl. No. 4 with
Mr. Buck to Barrett Rosen, No. 411.
March 5th, 1900.

Copy

United States Legation,

Tokio, March 5, 1900.

My Dear Colleague:-

I beg to acknowledge the receipt of Your Excellency's note of date the 26th ultimo, informing me that, by a telegram from Vice-Admiral Hiltebrandt, Commander-in-Chief of your squadron in the Pacific, then with part of his fleet at Nagasaki, on Sunday the 25th ultimo, the United States Cruiser "New Orleans" arrived at that port; that the cruiser did not salute the Vice-Admiral's flag as required by international usage, on the plea that it was Sunday; that the commanding officer of the cruiser did not visit him, as equally required by such usage; and that the Vice-Admiral declined to receive a salute after the lapse of twenty-four hours;- that as a matter of duty you bring these facts to my attention and, while convinced that the failure of the commanding officer of the "New Orleans" to comply with international usage was due only to misapprehension on his part of the meaning of the stipulations of the United States Navy Regulations in respect to saluting and visiting on Sunday, you express the hope that I will concur with you that an apology is due the Vice-Admiral.

Upon the receipt of your note I telegraphed to the Commander of the "New Orleans" for his statement of the particulars of the incident, which I received in part by telegraph the following day, and in which he stated that full particulars would come by mail. Awaiting the receipt of his statement by mail, which I now have, has caused some delay in my response to your note.

While in conversation with you last Tuesday morning, after reading the Naval Regulations concerning salutes and visits on

Sunday, not knowing the construction generally put upon the Regulations by our naval commanders in these respects,-- from the reports of your Vice-Admiral of the reason, as stated by him, of the failure of the Commander of the "New Orleans" to salute and visit him, I expressed myself as thinking as you did, the Commander in error in construing the Regulations, as, of course, it is not to be supposed that any discourtesy on his part in not saluting the Admiral's flag and visiting him was intended. But on reading the report of the Commander of the "New Orleans" of this incident I have changed my view and now think the Commander not at fault, presuming that the detailed statement by him is correct.

The report to me of Captain Longnecker, the Commander of the "New Orleans", is in substance as follows:- His vessel arrived at Nagasaki about 8 o'clock Sunday morning, when he found in port the Russian and Italian flagships, and a Japanese despatch vessel in dry dock. After anchoring, the boarding officers of the different war vessels in harbor were received by him, one from the Russian flagship ,who spoke very little English. The Captain endeavored to explain to him that as soon as he could learn whether a national salute to the Japanese flag could or could not be returned, he would salute the Vice-Admiral's flag,- after the national salute, if one was to be fired, and if no national salute was to be fired, he would immediately salute the Vice-Admiral's flag.

The Captain received the United States Consul on board and enquired of him whether a national salute would be returned and was informed that on a previous occasion a United States vessel of war fired a national salute in Nagasaki harbor which was not returned, and he did not know the existing conditions in that respect. The Captain asked the Consul on go-

ing ashore to ascertain. An officer accompanied the Consul instructed to bring back a reply as soon as possible, but the officer obtained no information. After waiting some hours the Captain sent an officer to the Consulate,- about 1:30 P.M.- to get the desired information, who immediately returned with the report that the Consul was absent to return about 4 P.M., when the same officer was again sent to the Consulate for the information, to return as soon as possible.

The Captain had instructed the officer who had been sent to return the boarding officer's visits to see the commanding officer of the Japanese despatch boat and ascertain from him if possible whether a national salute would be returned if fired. The officer returning and reporting that the officer he communicated with on the despatch boat, but not its commanding officer, was not sure about it, he again sent the same officer to the vessel to see the commanding officer himself, who might be able to give the desired information. The commanding officer of the despatch boat not being on board, he failed to see him, but saw the same officer as before who gave the same reply as at first. Hence the Captain was unable to obtain any definite information until 8 P.M. that night, when the officer last sent to the Consulate to get it returned with the Consul who reported that there was no means of returning a national salute if fired.

About 7:30 P.M. the Flag Lieutenant came on board and stated that the Russian Vice-Admiral requested that no salute to his flag be fired, because so long delayed. The Captain explained to the Flag Lieutenant that up to that time he had been diligently seeking information, without result, whether a national salute, if fired, would be returned; that it would be

impossible to fire any salute until that fact was determined, requesting him to state to the Vice-Admiral the peculiar circumstances of the case, and to ask him if he would not withdraw his request. The Captain then mentioned to the Flag Lieutenant the message he had sent by the Russian boarding officer as already hereinbefore ~~xxxxxxx~~ stated.. The Flag Lieutenant stated that that was not the message delivered by the boarding officer, who had reported instead that he, the Captain of the "New Orleans", would salute the Japanese flag on Sunday and the Vice-Admiral's flag on Monday. The Flag Lieutenant then informed the Captain that the Vice-Admiral was ashore and could not be seen before morning, suggesting that the Captain have an officer at the Flagship at 7:45 A.M. the next morning - Monday- to receive an answer. The Captain then informed the Flag Lieutenant that, if he learned that the Japanese could not return the national salute, he would salute the Vice-Admiral's flag at Colors Monday morning, provided that the Vice-Admiral would withdraw his request. The Captain sent an officer to the flagship Monday morning, who returned before 8 o'clock with the information that the Vice-Admiral requested that the personal salute to his flag should not be fired.

The Captain further states that, under the circumstances, it was impossible for him, under the Regulations, to fire the salute to the Russian Vice-Admiral's flag on Sunday, and that he had hoped that the Vice-Admiral, after having full information of the facts, appreciating the situation, would have withdrawn his request not to salute his flag, since it was evident that no discourtesy was implied or intended by his action in the premises.

The Captain also states that he made the official visit to the Vice-Admiral, -which was not returned by him-- on Mon-

day morning after Colors, which was the earliest time, under the circumstances, that it could be made, as Regulations do not permit such visits before salutes are fired, except when personal salutes are requested not to be fired; that when he came alongside the flagship he was met by a Russian Officer who informed him that the Vice-Admiral was ill and could not receive him, and that the Captain of the flagship was on shore; whereupon he handed his card to the officer and proceeded to visit the Italian Rear-Admiral, to whom he explained the cause of delay in firing a salute to his flag until 8 A.M. that morning, which was satisfactory to the Rear-Admiral.

It would seem from the statement of Captain Longnecker, commanding the "New Orleans", as above detailed in substance, that the reason he could not salute the Vice-Admiral's flag was not simply because it was Sunday, as claimed by the Russian Vice-Admiral, but because it would have been improper to fire that salute before the salute to the port was fired ; if the port was to be saluted; that the Captain made every effort during Sunday to learn whether a salute to the port would be returned, without success, and if he could have ascertained in time that no salute to the port would be returned, he would have promptly fired a salute to the Vice-Admiral's flag; that he explained to the boarding officer on Sunday morning for the information of the Vice-Admiral that as soon as he could learn that a national salute would be returned, he would fire that salute and the salute to the Vice-Admiral's flag immediately after; if a national salute was not to be returned he would at once salute the Vice-Admiral's flag. This message, it seems from the reported statement of the Flag Lieutenant was unfortunately not correctly given to the Vice-Admiral by the boarding officer, but instead he reported that the

Captain would salute the port on Sunday and the Vice-Admiral's flag on Monday, which presumably was the cause of the Vice-Admiral's refusal to receive a salute to his flag on Monday morning and to return it.

It is to be regretted that from any misunderstanding such an incident should have occurred, but under the circumstances as stated by the Captain of the "New Orleans" I fail to see wherein he was at fault in any particular, for it would seem that he did everything possible to comply in all respects to the requirements of international usuage in such cases, and that the fault lay rather with the Russian boarding officer, who from his little understanding of English, perhaps, perverted the message sent by the Captain to the Vice-Admiral on Sunday morning, as it is hardly to be supposed that the Vice-Admiral would have declined a salute on Monday, or failed to return the Captain's call, if he had had full and correct information of the purpose and efforts of the Captain to make it possible to fire a salute to his flag within the time required by international courtesy, but rather would have been fully satisfied and accepted the salute and returned the visit as did the Italian Rear-Admiral.

Much regretting the incident which has given rise to this correspondence, and expressing the hope that it will be closed to the satisfaction of all concerned, please accept, my dear Colleague, etc., etc.,

Sgd A. E. BUCK.

To His Excellency

Baron Rosen,

Minister of Russia etc. etc.

Baron Rosen to Mr. Buck, March 6th, 1900. Encl. No. 5 with No. 411.

Copy.

Legation Imperiale de Russie,

Tokio, le 22 Fevrier/6 Mars, 1900.

My Dear Colleague,

I beg to acknowledge the receipt of your note of yesterday's date, conveying the substance of the report to you of the Commander of the "New Orleans" in regard to the incident referred to in my letter of the 26th ultimo.

It appears therefrom that Captain Longnecker explains his failure to salute Vice-Admiral Hiltebrandt's flag on the day of his arrival at Nagasaki by the difficulty he experienced in ascertaining whether a national salute should be fired, and if fired, would be duly returned (such national salute necessarily taking precedence of any personal salute).

In this respect I beg to observe that it is a fact of common knowledge that Nagasaki is a port where men-of-war are not required to fire a national salute to the flag of Japan for the reason -- of which the U.S.Consul seems to have informed the Captain of the "New Orleans" only at 8P.M. on the day of her arrival and not when he first boarded her in the morning-- that there are no means of returning such salute, if fired, leaving out of account the accidental presence of a Japanese despatch vessel which, being as Captain Longnecker himself states, in dry dock, could not under any circumstances have been expected to ~~fire~~ return a salute. This fact could hardly be supposed to be unknown to the Commander of any foreign man-of-war on the Asiatic station. Moreover it is a fact of which every Consul at Nagasaki is bound to be officially cognizant as it is one of a Consular Officer's first duties on boarding a man-of-war of his nation, upon arrival at his port, to acquaint the Commander thereof with the local requirements in

this respect and to furnish him with entirely reliable information as to whether a national salute to the flag of the country , if fired, will be duly returned. Besides, it would appear that, having failed in the first instance to obtain the necessary information in this regard from the U. S. Consul, the Captain of the "New Orleans" might have procured the same from the Commander of any of the foreign men-of-war,-- Russian Italian and, if I am not mistaken, also British -- then at anchor in Nagasaki roads.

Therefore I cannot but hold that under the circumstances Vice-Admiral Hiltebrandt was entirely justified in considering the explanations furnished to him by Captain Longnecker throug his Flag Lieutenant insufficient and in consequently declining to receive the salute of the "New Orleans" and the visit of her Commander after the lapse of 24 hours.

However, these being matters of Naval etiquette of which our knowledge is necessarity limited I beg to suggest that we refer the subject, together with the correspondence exchanged between us, to the consideration of the respective Commanders-in-Chief of our Naval Forces in these waters.

Accept, my dear Colleague, etc., etc.

sgd ROSEN.

His Excellency

Col. A. E. Buck,

etc., etc., etc.

Encl. No. 6, with

No. 411.

Readings of Telegrams.

Mr. Buck to Captain Longnecker, March 8, 1900.

Tokio, March 8, 1900.

Commander NEW ORLEANS, NAGASAKI.

Russian Minister claims you could have learned from other war vessels no national salute would be ~~xxxx~~ returned. Answer.

BUCK.

Captain Longnecker to Mr. Buck, March 8, 1900.

Nagasaki, March 8, 1900.

United States Minister, Tokio.

It is required for official action to ascertain through U.S. or native officials.

LONGNECKER.

Mr. Buck to Baron Rosen, March 8, 1900. Encl. No. 7 with No. 411.

Copy.

United States Legation,

Tokio, March 8, 1900.

My Dear Colleague.

I beg to acknowledge the receipt to-day of your note of date the 6th instant in which the opinion is expressed that the Commander of the "New Orleans" was at fault in not obtaining from some one of the commanders of the war vessels in port at Nagasaki the information, when, on the day of his arrival, it was learned by the Commander that the United States Consul there could not inform him whether a national salute would be returned if fired.

The Commander of the "New Orleans" has already been interrogated upon that point and he has replied that it is required for official action to ascertain such facts from the United States or native officials.

In respect to the matter of its being " a fact of common "knowledge", as you suggest, "that Nagasaki is a port where "men-of-war are not required to fire a national salute to the "flag of Japan," it may be proper for me to observe that it does not seem strange that Captain Longnecker was unaware of such fact. He, with his vessel the "New Orleans", had only a few weeks before come into Asiatic waters from the West, and could not be expected to have such knowledge as a matter of course. If the Consul did not know whether a national salute would be returned, conceding that he should have known, certainly Captain Longnecker could not be expected to be possess- of such knowledge. That the Consul did not have the necessary information I take to be the fact. Giving due consideration to the full and frank explanation of Captain Longnecker to the

Flag Lieutenant, I can come to no other conclusion than that the Vice-Admiral was not justified in regarding the explanations as insufficient and in declining the salute of the "New "Orleans", or the visit of the Commander on the following morning, but that, if a fault lay anywhere, it was rather with the Vice-Admiral in declining to accept the courteous explanations of Captain Longnecker and in failing to acknowledge his official visit.

Whatever differences of opinion we may hold, however, our knowledge of naval etiqutte being limited, as you suggest, it will be well to refer the matter, with copies of our correspondence, to the Commanders-in-Chief of our Naval Forces in the East for their consideration, and I will concur with you in taking that course.

Accept, my dera Colleague, etc. etc.

Sgd A. E. BUCK.

To His Excellency

Baron Rosen,

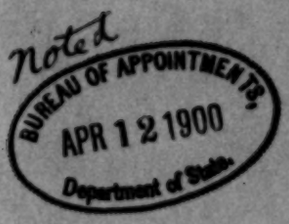
Minister of Russia etc., etc.

UNITED STATES LEGATION,
TOKIO.

No. 412. March 13, 1900.







Mr. Buck

to the Secretary of State.

Subject:

Death of Consul General Gowey.

UNITED STATES LEGATION,
TOKIO.

No. 412.

March 13, 1900.

Honorable John Hay,

Secretary of State,

Washington, D.C.-

Sir:

I have the honor to report that Consul General John F. Gowey died this morning after an operation removing a tumor from his bladder.

In making this announcement I think it proper to state that, in the death of Mr. Gowey, our Government has lost one of its most efficient and best public servants. It is generally conceded, I think, by his colleagues of other nationalities and also by Japanese officials and American residents as well that, in personal character, and in ability and efficiency as an officer, he was unsurpassed by any consular official, now or heretofore representing the United States in Yokohama in the capacity of Consul General.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

DIPLOMATIC,

APR 7 1900

UNITED STATES LEGATION,
TOKIO.

No. 443.

March 13, 1900.

INDEX BUREAU
REC'D.
6 APR 1900
DEPT. OF STATE

TO ASSISTANT SECRETARY,
Note, Ack + file.
aak
APR 7 1900

Ackd
Apl. 12
C

Mr. Buck

to the Secretary of State.

Subject:

Mr. Herod's departure for the United States on leave.

UNITED STATES LEGATION,
TOKIO.

No. 413. March 13? 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to inform you that Mr. Joseph R. Herod, First Secretary of this Legation, sailed for San Francisco on the 6th instant, by the Toyo Kisen Swaisha steamship "Hongkong "Maru", availing himself of the leave granted him by your tele graphic instruction dated the 24th ultimo.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

TELEGRAM RECEIVED IN CIPHER

DIPLOMATIC,
MAR 19 1900
BUREAU.

From Tokio,

March 19, 1900.

Received 3.50 A. M.

Secretary of State.
MAR 19 1900

Secretary of State,
Washington.

Copy to War Dept. March 19

Copy. Mar 20.

No existing concession to prevent the United States alone, or in conjunction with the Government of Japan, connecting Guam Island by cable with the Empire of Japan.

B U C K

red by Chief Clerk.

March 19, , 1900, 9 49 A.M.

UNITED STATES LEGATION,
TOKIO.

DIPLOMATIC,
APR 12 1900
BUREAU.

No: 414.

INDEX BUREAU
REC'D.
11 APR 1900
DEPT. OF STATE

March 20, 1900.

No. 1 ans
apl. 12

Mr. Buck,

to the Secretary of State.

Subject:

Confirming telegrams of March 17 and 18 relating to connecting Guam Island by cable with Japan.

UNITED STATES LEGATION,
TOKIO.

No. 414.

March 20, 1900.

Honorable John Hay,

Secretary of State,

Washington, D.C.

Sir:

I have the honor to confirm on the overleaf the Department's telegram of the 17th instant and my reply thereto of the 18th, relating to the connection of the Island of Guam by cable with the Empire of Japan.

In this connection it occurs to me to add, though perhaps hardly necessary to do so, that I am informed that in the event of the United States, or any other foreign power, laying a cable from Guam or from any other point to Japan, the Government would not permit the landing of such cable unless, as a condition precedent, to be determined by international agreement, it is to have absolute control of the business of its terminus in this country.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

Readings of telegrams, as noted, on overleaf.

Readings of telegrams.

Department of State to Mr. Buck, March 17, 1900.

Washington, March 17, 1900.

"Buck, Minister, Tokio.

" Would any existing (?) concession prevent the United "States alone or in conjunction with the Government of Japan "from connecting Guam Island by cable with the Empire of Ja- "pan?"

HAY.

Mr. Buck to the Department of State, March 18, 1900.

Tokio, March 18, 1900.

"Secstate, Washington.

" No existing concession to prevent the United States alon "or in conjunction with the Government of Japan connecting "Guam Island by cable with the Empire of Japan.

BUCK

DIPLOMATIC,
APR 23 1900
BUREAU.

UNITED STATES LEGATION,
TOKIO.

No. 415.

March 29, 1900.

INDEX BUREAU
REC'D.
23 APR 1900
DEPT. OF STATE

not necessary to
reply. Senator Hoar
to Dept. letter to him
7 March 2, 1900.
File-S.S.

Mr. Buck

to the Secretary of State.

Subject:

Acknowledging No. 273 dated March 2nd, in re criminal procedure in Japan.

UNITED STATES LEGATION,
TOKIO.

No. 415. March 29, 1900.

Fr Hoar Feb 17

To the Honorable John Hay,

Secretary of State,

Wahington.

Sir:

I have the honor to acknowledge the receipt of Instruction No. 273 of date the 2nd instant, enclosing copies of communications from Honorable George F. Hoar and Reverend David Crosby Greene, relating to the importance of some understanding with Japan in respect of publicity of hearings in cases of 'merican prisoners accused of crimes, opportunity to meet witness face to face, the right to consult counsel freely and without delay, and to be represented by Counsel in Court.

In the instruction I am reminded of the delicacy of interference with the workings of the laws of the country founded on the procedure of the Civil law in criminal cases, regarded with suspicion by English-speaking peoples; and as directed shall carefully watch the workings of the new system of administering justice under the penal code of Japan, and report thereon as occasion requires.

I have the honor to be,

Sir,

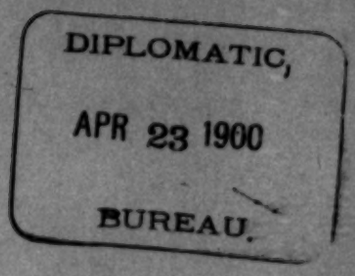
Your obedient servant,

A. E. Buck

UNITED STATES LEGATION,
TOKIO.

No. 416. March 30, 1900.





Mr. Buck

to the Secretary of State.

Subject:

Question of sending legation mail pouches by other steamship lines.

UNITED STATES LEGATION,
TOKIO.

No. 416. March 30, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I learn through the Foreign Office here that the Japanese Minister for Communications has made arrangements with the various lines of steamships sailing to America by which the Japanese Government's official mails may be sent not only by the San Francisco lines, but also by any of the others--for instance the C.P.R.Co's. ships; and that the same privilege will be extended to this legation, if desired.

If the Department desires it, I will avail of this arrangement, when a saving of time seems desirable, in forwarding the legation mail pouches.

I have the honor to be,

Sir,

Your obedient servant,

W. W. Rock

UNITED STATES LEGATION,
TOKIO.

ASSISTANT SECRETARY
MAY 10 1900
DEPARTMENT OF STATE

No. 417

INDEX BUREAU
REC'D.
10 MAY 1900
DEPT. OF STATE

April 7, 1900.

Rec'd Feb. 7, 1901

Mr. Buck

to the Secretary of State.

Subject:

Land tenure in the former foreign settlements.

UNITED STATES LEGATION,
TOKIO.

No. 417

April 7, 1900.

Honorable John Hay,

Secretary of State,

Washington, D.C.-

Sir:

I have the honor to enclose herewith copies of a communication and a memorandum received from Mr. John Lindsley and Rev. E.S.Booth, claiming to act under instructions of the Executive Committee of the American Asiatic Society of Yokohama, in which they set out at length many reasons for complaint that the Japanese Government have failed to protect American perpetual leaseholders of property in the former foreign settlements in that port in their rights guaranteed by treaty. Their numerous complaints may be summarized in general as follows:-

I.- That leases in perpetuity held by Americans in the foreign settlements have not been fully confirmed by the Japanese Government as stipulated by treaty, but rather avoided instead by requiring their registration as superficies (perpetual leases).

2.- That in requiring their leases of land to be registered at the Kencho (Prefectural Office) and the buildings thereon at the Saibansho (Local Court), and the charge of 2-1/2 per cent of value of buildings on registration of a transfer of titles to such buildings, are in conflict with treaty provisions.

3.- That the tax now levied or any tax to be levied by the Japanese authorities on the buildings upon the land held under perpetual leases is a violation of treaty stipulations, pro-

perly

perly construed; and that the method employed in estimating the valub of buildings for taxation and the taxes so levied are unjust, and with other taxes are a hardship.

4.- That in consequence of long tenure and use of their lands and buildings under extraterritorial jurisdiction,- not taxed and not disturbed by the Japanese Government or the local authorities,- prescriptive rights have been acquired and now, the Japanese Government, on assuming jurisdiction over their property, should be estopped from enforcing her tax laws upon the buildings as well as upon the lands.

5.- That in consequence of the failure of the Japanese Government to comply with treaty obligations in respect of their property rights, their holdings have depreciated in market value and transactions in selling or mortgaging property are paralyzed.

1.- In respect of the first ground of complaint, as summarized above, I have the honor to refer to my previous despatches upon that subject,- No. 364 of October 4, and No. 392 of December 29,1899;also No. 394 of January 12 and No. 398 of February 5, last ,- and enclosures; also to the enclosed copy of a note of the Minister of Foreign Affairs to the Minister of France; also the enclosed cuttings from most of the newspapers published by foreigners in Yokohama and the leading newspaper of Kobe, which, in respect to this matter are supposed to voice, to a large degree, the prevailing opinion of foreign residents in those cities,-though not to be taken as evidence in coming to a conclusion on the merits of the case,- and all-except the Herald regard the course taken by the Gov-

ernment

ernment as substantially complying with treaty provisions;- to wit: the Japan Weekly Mail of February 3 and 17 last (the latter a republication from the Daily Mail of February 12 and 14); the Daily Mail of the 2nd and 5th ultimo; the Japan Daily Herald of February 5 and 12, last; the Daily Advertiser of the 1st ultimo,- all published in Yokohama; and the Kobe Chronicle of the 5th ultimo.

In this connection I also respectfully refer in particular to "Regulations Relating to Foreigners in Japan", a copy of which accompanied my dispatch No. 338 of July 29th last, under the head of "Registry of Immoveables" (Imperial Ordinances Nos. 329 and 333 of July 7, last), in which is prescribed the books of Registry of land and other immoveables; and with the same dispatch a "Notification of the Department of Justice" (No. 41, of July 10 last), respecting Registration; also the authority for the issuance of Imperial Ordinance No. 458 found in Law No. 71, of March 18, 1899, which reads as follows:-

"With respect to the acquisition, loss or transfer of "property rights in immoveables and ships, made by aliens "or foreign legal persons before the operation of the "Revised Treaties, the cases in which the registration of "the said rights is necessary and the process of regis- "tration may be specially determined by Imperial Ordinance."

also copies of pages of the Register Books of Yokohama (enclosure 5); also copies of two reports, Nos. 1822 and 1829, from Geo. H. Scidmore, Esq., Deputy Consul General at Yokohama, made on my request (enclosure 6-7) . (Mr. Scidmore is a member of the Executive Committee of the American Asiatic

Society

Society with Mr. Lindsley and Mr. Booth who present these complaints. Mr. Scidmore is regarded a good lawyer. He has been in the Consular service in Yokohama since May, 1876 as Consular Clerk and then Deputy Consul General, and has a good knowledge in respect to what he reports).

Since the Japanese Government itself executed the leases and, so long as such leases should be held by foreigners, guaranteed their perpetuity, and in case such leases should be transferred to Japanese subjects (Imperial Ordinance 333 with dispatch 338) they are to acquire actual ownership, - which latter fact may be taken as additional evidence of the recognition on the part of the Government of their perpetuity, - and since actual ownership is now vested in the Government, it would seem that, so long as such leases were held by foreigners, no one but the Government itself could question the rights guaranteed by it, independent of the fact of treaty stipulations to hold inviolate and confirm all rights guaranteed by the terms of such lease.

Hence, in consideration of Imperial Ordinance 458 and the interpretation put upon it by the Japanese Government, as given by the Minister of Foreign Affairs, together with the Ordinances and Regulations above cited, also the facts and opinions presented in other enclosures herewith, have or have not leases held in perpetuity been confirmed as required by treaty?

Can rights under leases held in perpetuity, entered in the register provided for the registration of superficies, and entered as "superficies (perpetual leases)", be impaired by that method incident to registration, when the Government, the party of the first part, has guaranteed the rights specified in

the

the leases and has declared by Imperial Ordinance that method of registration and has interpreted it to mean full compliance with treaty provisions in respect of such leases? If they are to be so impaired, the claimants are right in their contention.

What force there may be in the claim that, by the expiration of the present treaty, the Government or any individual who may possibly, at that time, have acquired the ownership of land held under perpetual lease, will interpose in any way so far as to work a denial of any right solemnly guaranteed by the Government in the leases themselves, seems to be speculative.

2.- Concerning the second cause of complaint, the "Notification (No.41) of the Department of Justice" in Article II, (with my despatch No. 338 of July 29th last), in carrying out the law of registration in respect of land and buildings being separate and distinct kinds of property to be separately registered,- applying to foreigners and Japanese alike,- provides that, "The local court shall prepare land registers re- "lating to foreigners and foreign juridical persons, and reg- "isters of buildings relating to the rights of foreigners and "foreign juridical persons".

It is claimed that the buildings, equally with the lands, are included in the word "property" in the provision of Art. XVII of the treaty with the United States providing for the confirmation of existing leases; that any transfer of a perpetual lease of the land, in conformity with the laws in the United States and in other countries, carries with it all buildings upon it as a matter of course, as is clearly to be

understood

understood by a proper construction of treaty provisions. That the requirement in case of transfer of property that the land and buildings are to be registered separately and in separate offices will cause much inconvenience and vexation to foreign leaseholders, I have no doubt; but the question arises whether Japanese or foreign laws should control in this respect. I think all foreigners object, and naturally, to this requirement as a hardship and an annoyance, apart from any charge for registering a transfer of buildings (see Scidmore's statement No. 1822 above referred to, paragraph 8). But, in event that objection should be removed and land and buildings were included in one instrument of transfer and entered at one office in the same register, and the charge of 2-1/2 per cent on value of buildings as now required to be paid should still be imposed, the most important cause of complaint would still exist; because the chief contention is that the buildings should equally be exempt from any form of taxation as the lands.

3.- This leads to the third matter of complaint: that any tax whatever, whether the charge of 2-1/2 per cent of value of buildings on transfer of lease, or any other public charge or tax on buildings for municipal purposes, is inadmissable under the treaty, and business and other taxes to be levied are cumulative and a hardship.

To fully understand what basis there is for such contention in respect to "House Tax", I beg to refer to a copy of the "Land Regulations for the Port of Yokohama",-- the only regulations for foreign settlements not contained in the book of "Treaties and Conventions of Japan", which book is presumed

to be in the library of the State Department; also copies of two titles of perpetual leases of property in Yokohama (forms of such leases at other ports are to be found in the book of "Treaties etc.").

It will be observed that the Regulations of the several foreign settlements vary in terms, as also do the conditions set out in the forms of perpetual leases. In Yokohama and Nagasaki failure to comply with the conditions of annual payment of rent etc. forfeits the land and in addition the buildings thereon; while in Tokio, Kobe and Osaka, in case of failure of the annual payment of rent, proceedings are to be instituted against the leaseholder. Since in Yokohama and Nagasaki the leaseholders were required by regulations to erect buildings, and, in case of default in the annual payment of rent, they were to forfeit their leases, and their properties, including buildings, were to revert to the Government,- which fact is argued to be an additional reason to claim that the buildings are a part of the property and should, under the treaty, be exempt from taxation as well as is the land;- may it not be to some degree reasonable and as fair, perhaps, to suppose that this provision was made because, under Japanese law, the land and buildings are distinct and separate properties, and the disposition of the land without specification as to the buildings does not include the buildings? And the buildings, being the absolute properties of leaseholders, while the lands are not, may it not be inferred that the Japanese Government provided that on re-entering into possession of the land the buildings thereupon should also revert as a penalty for the non-performance of contracts by the leaseholders? How

How much force should be given to the contention that, since, in Article XVII of the treaty with the United States, the word "property" is used as applying to leases held by foreigners in perpetuity and the word "land", as applying to grants in perpetuity for public purposes, reveals the fact in "the one case that land and something attached to it was meant" and land only in the other, would seem to depend upon the intention of the high contracting parties to the treaty and the interpretation the two Governments may now put upon the text of that Article.

It is contended that, under Articles 86, 87 and 242 of the Civil Code, copied in full on page 18 of the memorandum under discussion, buildings are accessory to the land. Hence, under Japanese law as well as treaty stipulations, a transfer of a lease held in perpetuity necessarily, unless stipulated to the contrary, carries with it a transfer of the buildings and for that reason no separate registration nor any charge therefor should be imposed upon them as separate and distinct properties. As to whether such argument is sound, as it would be under the laws of the United States perhaps, the opinions of some Japanese authorities will throw some light.

Interpreting Article 87 of the Civil Code, Dr. Umè, Professor of Law in the Imperial University of Tokio, and member of the Code Investigation Committee, states: "An accessory has "two necessary requisites according to this Article (87). 1.- "It must be for the constant use of its principal thing, as a "key to a box , or a bucket to a well. A thing used for a "time is not an accessory, as a table or chair to a house. "2.- An accessory must be owned by the owner of the principal thing

'thing; that is to say, the owner of the two must be the same, 'else the accessory cannot follow the disposal of the thing 'to which it is attached.

' This Article of course shows the general rule that an ac- 'cessory follows the principal thing. If there should be any 'contract or promise to the contrary, such contract or promise 'must be followed'.

Also the opinion of Mr. Okamatsu, Lecturer on the Civil Code at the Tokio Law School, the Meiji Law School, the Sem- mon Gakko, etc., etc.,: 'To be an accessory a thing must ful- 'fil the following five conditions: 1.- It must be another 'thing than the principal thing. 2.-It must be attached to 'another thing. 3.- An accessory must belong to the owner of 'the principal thing. This provision is ~~not found in~~ not 'found in foreign codes; but if the tenant of the land or the 'occupant of a building attaches to the land or building his 'own things for his own use, it is unjust that he should there 'by forfeit his ownership of the things so attached. 4.- An 'accessory must be for constant use. 5.- The constant use 'must be for the sake of the principal thing'.

Interpreting Article 242 of the Civil Code, Mr. Okamatsu states, after summarizing the provisions of the laws of most foreign countries relating to land and buildings thereon :- 'To acquire an accessory immoveable with the principal move- 'able according to this Article (242), the said accessory must 'fulfil the following conditions: 1.- It must be attached 'fixedly and permanently to the immoveable. 2.- It must be 'attached to the immoveable as an accessory (subordinate) to 'it. An 'accessory'(subordinate)' here means a thing that is 'joined to another thing, is used for the same economical pur- pose

'pose, and can be regarded as one thing in the every day life. 'If, therefore, there is no relation of superior and subordi-'nate between the two immoveables, and they are independent of 'each other, then they are two separate things, both in fact 'and in law, and cannot be said to be attached to an immove-'able. Take for example a house. It is in nature attached 'to the land. But the ideas of our country up to the present 'day have regarded it as a thing independent of the land and 'not as belonging to the land. Hence the question of attach-'ment to an immoveable cannot here arise".

The closing lines of the opinion of Mr. Okamatsu, in respect to Article 242, underlined as above, if a proper interpretation of that article of the Code, would seem to destroy the argument of the complainants based on their interpretation of the Code in respect of accessories. I know of no Japanese decision or opinion in conflict with the opinions of Mr. Okamatsu and Dr. Umè upon the subject of accessories, under Japanese law.

If the interpretation of Article XVII of the treaty must be interpreted in the light of and in conformity with the laws of the United States, then it would seem that the argument of the complainants should hold good.

Further, it will be observed that the Land Regulations for Yokohama provide for the foreign holders of perpetual leases to levy taxes upon their lands and buildings for lighting and cleaning streets, and for a police force. Since, under extraterritorial jurisdiction, it was provided that they might tax their own property, including buildings, for the purposes stated, now that their power to tax has ceased to exist, can the claim that the Japanese authorities, under whose jurisdic-

tion

tion they now are, have no right to tax their buildings for municipal purposes hold good? Are foreign leaseholders, in consequence of now having come under Japanese jurisdiction, free from any obligation to pay taxes levied by the Japanese authorities, though they may not have levied a tax upon themselves as provided by the Regulations while under extraterritorial jurisdiction?

The French treaty with Japan is cited and Article XXI is quoted in support of the claim of exemption from tax on buildings as well as land. While that article of the French treaty is considered somewhat stronger in expression, as implying that the word "propriétés" was intended to include buildings, than Article XVII of the United States treaty, yet the French Minister here, who contends for exemption from the "House Tax," expresses much uncertainty of success. The matter is still pending and he is awaiting instructions, in doubt whether he will be supported by his Government in his claim. Neither the German nor the British Minister have confidence of the success of such contention, and, I understand, have not objected formally to the imposition of the tax on buildings. Both have stated that they did not see much hope of success of such claim of exemption. Meantime the Japanese Government has not announced any decision upon the question.

In my despatch 365, of Oct. 6th, last, it will be remembered that I stated that I had made no claim of exemption from the registration tax on value of buildings, because of doubt of the grounds upon which to base such a claim. In instruction No. 260 of November 6, last, acknowledging the receipt of both that despatch and my No. 364 of October 4th, I was not directed in respect of what action if any I was to take upon that

question

question in particular; but the clause of that instruction which stated that, "In the assignment of leases between private 'parties for private purposes, citizens of the United States 'are subject to the same registration fee or charge as is im- 'posed on Japanese subjects, unless the original leases speci- 'fy to the contrary", I understand to mean, not only that the charges made on the registration of buildings when transferred with or without the land (which is hereinbefore discussed), but also that other taxes by the Japanese authorities on buildings on the property of a foreign holder of a perpetual lease for municipal or other purposes could be required to be paid, the same as if a Japanese subject held the property instead,-- since the leases themselves do not stipulate to the contrary.

As to the manner of estimating the value of buildings for taxation and the taxes so levied being unjust, and numerous other taxes and charges a hardship, there seems to be, under treaty stipulations, no legal ground of complaint. The same method, as I am informed, is employed in estimating the House-Tax of Japanese subjects and the same rate of tax levied,--the tax law applying to Japanese and foreigners the same. In this respect it seems that no charge of discrimination against foreigners can successfully be made and it will be observed that no such charge is specifically made in the memorandum of complaints. Whether these taxes may be unjust, and with numerous other taxes a hardship or excessive, is shown in some respects by the following enclosures:- the statement of Mr. John McLean, Vice and Acting Consul General of the United States at Yokohama, giving value of land and buildings owned by him in the foreign concession on the Bluff, also in respect to the

property

property which is now occupied by the Consulate and the taxes paid thereon; also the statement of Mr. Scidmore, No. 1822, above cited, in respect of the value of the property of the Grand Hotel, the Yokohama Club and the Oriental Hotel, all on the Bund and within the foreign settlement, and the taxes paid on the land of each respectively. As to other taxes sought to be levied being cumulative or excessive,-- the Business Tax, Income Tax and other charges complained of-- Laws No. 32 and 33 enclosed with my despatch No. 359 of September 27, 1899, in respect of "Business Tax" and "Revised Income Tax Law" will furnish definite information.

4.- In the matter of prescriptive rights claimed to have been acquired by long tenure and use of property in the foreign settlements under extraterritorial jurisdiction, while my opinion is that that contention is not well founded, I need not discuss the question pending instruction from the Department.

5.- Finally, in respect of the fifth subject of complaint,-- that because of the failure of the Japanese Government to comply with treaty obligations, about which statements of grievance in general and particular are set forth and because of which it is claimed that property has depreciated in value so much that no real estate transactions are made --, my information on inquiry is that, of American residents,- property holders - in Yokohama, only about one-third are in support of this and other complaints, and not a majority even of the American Asiatic Society, for which the two gentlemen addressing me speak, - except the complaint touching the requirement for separate registration of buildings and lands at separate offi-

ces

ces, in a transfer of perpetual leases including buildings. The President of that Society, Mr. J.R. Morse, and Mr. Scidmore, a member of the Executive Committee in whose behalf these complaints are submitted, and others have personally expressed to me their impatience with the course taken by the complainants in general but have submitted to it that the questions raised might, once for all, be settled at the Department of State. They say that the reason for the paralysis of trade in perpetual lease property is largely due to the agitation by the lease holders themselves and that of course property cannot have the market value it should have when the holders discredit their titles.

In remarking generally on these complaints I think I am justified in saying that some of our American residents in Yokohama who hold perpetual leases, together with a large proportion,- perhaps a majority- of property holders among the British and German subjects, have from the first been opposed to treaty revision by which extraterritoriality has now been abolished. They have constantly been apprehensive concerning their fate when the new treaty should go into operation. They have been looking for and expecting trouble under Japanese control; and it is not to be wondered at, when it is considered for how many years they have lived in Japan but not of it, so independent and free from vexatious taxes and many other burdens incident to city life in their own country. They have regarded the Japanese as inferiors and now, being under the control of Japanese law and Japanese officials, some of them, though unwittingly no doubt, are inclined to exaggerate their troubles. Having little confidence in the purposes of the

Japanese

Japanese Government and local authorities, it is hard for them to adjust themselves to their new conditions. That they already have had and will continue to have some reason to complain of inefficient local officials is not to be denied; but in my opinion they have no sufficient reason to suspect the good faith of the Government which seems to be earnest in the desire and purpose to demonstrate to the world that Japan has not been received into the family of nations too soon.

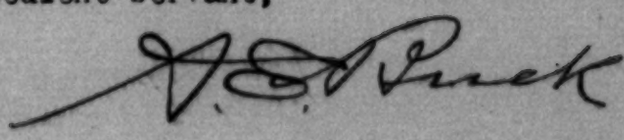
Though of some specific claims and items of complaint set forth in the memorandum no special mention has been made, I think they are substantially covered by my statements in respect to the various classes of complaints, together with the enclosures and the laws and regulations to be found at the Department.

That Imperial Ordinance No. 458 is disappointing and that the term "superficies (perpetual lease)" is used instead of simply "perpetual lease" gives occasion of complaint because of ambiguity of definition is true; and if the conclusion of the State Department should be that, in consideration of treaty stipulations, there is sufficient ground for further appeal to the Japanese Government for a more specific and direct confirmation of leases held in perpetuity, I shall of course press the matter with vigor, as I also shall in event of instructions to do so in respect of any other of the matters of complaint. I desire to do all in my power to protect American interests and that every right guaranteed to them by treaty shall be made secure; and I would be pleased if it were possible for American residents to remain as free from taxation as they were under extraterritorial jurisdiction.

I have the honor to be,

Sir,

Your obedient servant,



Enclosures:

1.- Communication from Messrs. Lindsley and Booth,- copy.
2.- Memorandum accompanying same "
3.- Viscount Aoki to Minister of France, "
4.- Newspaper cuttings
5.- Pages of Registry Books of Yokohama "
6.- 7.- Reports by Mr. Scidmore
8.- Land Regulations for Port of Yokohama, "
9.- Title deeds of perpetual lease in Yokohama "
10.- Statement of Mr. McLean "

Enclosure No. 1
with Gen. Buck's No. 417

Yokohama, March 21st, 1900.

His Excellency

Alfred E. Buck,

Envoy Extraordinary and Minister Plenipotentiary of

the United States of America,

Tokyo.

Sir,

In pursuance of our conversation of the 5th inst., relative to the tenure and taxation of properties held by United States citizens in the former Foreign Settlements, and acting under instructions from the Executive Committee of the American Asiatic Association of Japan, of which we are members, we have now the honor to submit the following facts (details of which will be found seriatim in the enclosed memorandum) for your consideration.

The position of the Japanese Government.

A The Japanese Government proposes to levy several rates, impose many taxes, and collect heavy registration fees of a nature which United States citizens claim foreigners generally are expressly exempted from paying under the provisions of the United States treaty and the treaties with various powers;

B The Japanese Government proposes to register lands held under perpetual leases as "Superficies (perpetual leases)" which denomination and classification is not (on legal ground) satisfactory to United States citizens notwithstanding the explanations (given doubtless in perfect good faith) of H.E. the Japanese Minister of Foreign Affairs. The Courts are not bound by the assurance of a diplomatic nature unless such assurances are embodied in the provisions of special legislation, or unless the notes are made binding on them by means of Imperial

ial Ordinances. In the absence of definite laws and detailed rules the Japanese Judges betray a tendency to shirk the responsibility of liberal interpretation of treaty undertakings and in some cases go so far as to ignore the treaty in their judgements;

C The Japanese Government has NOT, in point of fact, sufficiently confirmed the perpetual leases by Imperial Ordinance No.458, as it proposes to change the denomination of the rights under those leases, and moreover the Ordinance in question does not cover the buildings and matters relating to their transfer;

D The laws of Japan, if enforced, would both directly and indirectly burden the properties held by United States citizens in a manner which the United States Government particularly sought to guard against in the provisions of the various clauses of the treaty, and which are specially guarded against on behalf of other nationalities in the provisions of the various treaties and conventions existing between Japan and the foreign powers;

E The provisions of the Imperial Ordinance re registration are utterly impracticable in certain cases especially as regards past transactions;

F The Japanese Government does not appear to realize the duty and necessity of modifying the laws of this Empire so as to bring them into such a form that the various matters in dispute can be dealt with in conformity with their treaty obligations. The intentions of the Government are no doubt excellent ,but in practice there seems to be a general inclination to interpret the various articles of the treaties somewhat illiberally and narrowly, and a feeling against introducing

ducing measures to afford adequate relief to foreigners in respect to the matters hereinafter recited and explained at length.

In contradistinction to the attitude of the Japanese Government, the following will show the true facts re tenure of properties in the former Foreign Settlements.

A The Settlement lots were actually purchased by United States citizens;

B The title deeds granted virtual ownership of land in perpetuity;

C No taxes or impositions whatsoever were to be levied on the lands other than "ground-rent" which is really a commutation fee for taxes;

D The lots were allotted for the express purpose of lands for building purposes;

E The commutation fee for taxes paid under the name of "groudd-rent" was an all-covering payment and included any possible tax on the building;

F The buildings on the lots are the absolute property of the land holders;

G For some forty years the conditions of the perpetual leases have been carried out by both parties and in view of what has been done for so long under the deeds it is easy to interpret their meaning.

H Whatever rights appertain to the perpetual leases have been exercised and enjoyed for so long a time that they have been prescriptively acquired by usage.

I Under the French treaty the rights in respect to the perpetual leases in question have been expressly and unequivocally confirmed to French citizens, therefore the citizens of the United States under the rules of international law and the

most

most favored nation clause have absolute right to hold properties (i.e.land and buildings) on exactly the same terms and conditions as heretofore.

It is believed that due consideration of the enclosed memorandum will convince you that Imperial Ordinance mentioned by H.E.Viscount Aoki does not cover the whole of the ground by any means, that the interests of United States citizens are in jeopardy when there are no definite laws or detailed rules concerning their real estates in harmony with the treaty, and that the steps taken by the Japanese Government to protect them are so entirely inadequate that rights accorded under the treaties are liable to infringement by the Japanese Courts.

In view of the position of affairs it is earnestly desired by United States citizens who are holders of real estate

(1) That the Conventional perpetual leases of properties now held by them in the former Foreign Settlements be confirmed under their old and distinctive name of "perpetual leases" without any qualification or alteration whatsoever.

(2) That no conditions, other than those contained in such existing leases be imposed in respect of such property;

(3) That the term "property" in Article XVII of the United States treaty be oficially declared to mean lands, buildings, and all fixtures thereon;

(4) It being the original intention of the parties, as shown in the documents referred to in the memorandum herewith, that the fixed annual "ground-rent" payable under the perpetual leases of properties in the former Foreign Settlements should cover every possible form of impost, tax, charge, and contribution to the State, it is desired that the Japanese Government should make it an integral part of the law, in accordance with the terms of the treaty, that they distinctly renounce

and

and waive all claims to tax any of the properties aforesaid otherwise than has already been stipulated in the perpetual leases, including specifically in such renunciation and waiver the business tax on rentals and the tax on income from rentals derived from the said properties and their accessories;

(5) That, as registration is required by Japanese law to prove ownership and protect rights in rem against third persons, the Japanese Government should make suitable regulations and embody them in the Civil Code, relative to the registration of properties held by United States citizens in the former Foreign Settlements, under the provisions of which regulations all matters of whatsoever nature which should or may be registered in respect to both the lands and the buildings thereon can be registered at the request of the owners in the Registry Office of the Local Court either together or separately and in such a manner as to conform to the provisions of Article 177 of the Civil Code, the Law of Registration, or other laws; such regulations to cover the registration of all matters relative to mortgage and to provide that all registrations be effected free of charge to the parties concerned excepting perhaps a small nominal fee for the labor of recording;

(6) That the Japanese Government be induced to so modify existing laws and regulations that citizens of the United States may receive the full benefit of all rights secured to them in virtue of the treaty between the United States and the Empire, and in virtue of the treaties between Japan and other Powers under the "most favored nation" clause in accordance with the principles of international law;

(7) That the Japanese Government be induced to afford to United

United States citizens such other relief as the nature of the case demands.

As we consider that the rights of United States citizens as accorded under the treaties are liable to encroachment until the present Codes and Laws are modified, and that this matter is properly a subject for diplomatic action, we beg to request your good offices in bringing the circumstances of the case before the notice of the United States Government as a matter of urgency with a view to having the the said rights clearly defined and maintained in their full integrity hereafter.

While fully recognizing that a matter of this weighty nature cannot be disposed of in a summary manner, we would point out that it is of the utmost importance to property holders that steps should be taken to settle the same with as little loss of time as possible.

For months past business in real estates in the former Settlements has been paralysed and at a standstill while values have declined materially owing to the anomalous and unsatisfactory position of affairs; and now things have reached a point when every day of delay causes further loss and injury to United States citizens who are debarred from exercising those rights secured to them by the treaty with this Empire. We respectfully submit that the position is already such that further procrastination or half way measures will only accentuate it, and that if the matter in question is not speedily adjusted foreign capitalists generally will be deterred from investing money in Japan to the detriment of the commercial developement of this country and the consequent loss to Japanese and aliens alike.

Apologizing for the inordinate length of this letter and its

its enclosures, whichwe trust you will excuse in view of the importance of the subject matter,

We are, Sir,

Your obedient servants,

(Sig.) John Lindsley

(Sig.) Eugene S.Booth.

Enclosure No. 2 in Mr. Buck's No. 417.

Attached to letter to the United States Minister in Tokyo, dated Yokohama, 21st March, 1900.

MEMORANDUM

re the tenure of former Settlement properties in Yokohama

The position of the Japanese Government.

A The Japanese Government, through its local officials, has not only claimed a right to levy rates and impose taxes upon Settlement land and buildings directly, but proposes to levy disguised taxes indirectly. True some slight amelioration has been secured, but the nature of such relief is more apparent than it is real, and a perusal of the following statement will convince the most sceptical of the curious anomalies and real hardships of the situation.

Until the coming into operation of the new treaties the "ground rents" covered everything, and owners were able to deal with their properties as they pleased without the necessity for any registration in the Japanese records except a registration (free of charge) at the Kencho (local Prefectural office) in the case of absolute transfer, as provided for by the terms of the perpetual leases above referred to; and it was thought that under the new treaties a continuance of the same conditions had been secured.

B Mr. Healing—a British subject—having applied in August 1899 for registration of title to Lots Nos. 20 and 21 Bluff, Yokohama, the Registrar refused to register the same, and upon complaint to the Local Court the Registrar's action was sustained the Judge explaining that perpetual leases are not recognised by the Japanese law, and that the title could only be registered as "perpetual superficies". If registration had been

accepted

accepted on these conditions the "perpetual lease" in question would have been registered as "perpetual superficies", and this would have been tantamount to tacitly admitting the right of the local authorities to alter the status and rights which would be involved by Japanese law in the change. Moreover a registration fee of 2½ per cent would have been payable on the value of the land and 2½ per cent on the value of the buildings. This matter having been brought to the notice of the British Minister in Tokyo-Sir Ernest Satow-representations were made to the Japanese Government, with the result that Imperial Ordinance No.329 "As to Immovables in which rights are held "by Aliens or Foreign Juridical Persons" was altered by Imperial Ordinance No.458 on the 27th December 1899. Under the latter Ordinance foreigners can obtain registration of their respective leases through the Kencho (local Prefectural office) as formerly, and-it is believed-free of cost, but the wording is such that this new Ordinance entirely fails to achieve its object or to remedy the evils and difficulties of the situation for the following reasons:

C Instead of keeping to the original language of the treaties and describing the leases as "perpetual" (or "in perpetuity") a change of name has been made and the leases are called "Superficies (perpetual leases)", and the addition in brackets of the words "perpetual lease" does not affect the fact that the denomination of the right in the laws of Japan is different from its denomination in the treaties. Such bracketing is open to doubt as to its legal meaning and this is most unsatisfactory. The rights under a Conventional perpetual lease are (as mentioned in paragraph 1 of memorandum re "Conditions of Tenure") very full and ample and confer all the essential privileges of ownership, and the lease is intended

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to last forever, the Government having no expectation of recovering it at any future time. Superficies is a right intended to last for a limited period only, and a time is expected to come when the owner of the land shall recover his full rights. A superficies must therefor be created for a specified time- be it ever so long- and if the parties omit to do so the right is liable to be shortened down by the Court to from 20 to 50 years (Civil Code Article 268). Furthermore a superficies is defined by the Civil Code to be the right to own buildings, bamboos, or trees on the land of another (Civil Code Article 265) but a perpetual lease may be for many other purposes. It is feared that at some future time the different nature of the two kinds of rights may no longer be clearly understood, and that provisions of the law may be applied to Settlement perpetual leases which were only intended for the Japanese Superficies; and moreover, as the present legal system of Japan does not recognize the institution of "perpetual leases" it is considered that until this institution IS legally recognized as the outcome of special legislation the position of foreign lease-holders will always be more or less anomalous and doubtful when challenged in the Japanese Courts. The Japanese legal definition of the word "Superficies" is not, and probably could not be , disturbed by Article 45 of the "Law "concerning the operation of the Civil Code (As to a superficies created for an alien or a foreign juristic person the provisions of the Civil Code apply only so far as it is not otherwise provided by treaty or regulation") or by the Imperial Ordinance No.458, and however special the variety may be, it is plain that a superficies is something quite distinct from a perpetual lease. As bearing upon this subject, it may be interesting to know that already a Japanese legal opinion has been

been given that if the land becomes at any time bare of buildings and trees steps may be taken to forfeit the title of the superficiary.

Viscount Aoki's notes are too ambiguously worded to give satisfaction to United States citizens: what they want is a recognition by law of the Perpetual Leases and a complete obliteration from their titles of the word 'Superficies'. They wish to have a right that shall be at once available in the courts, and not a right which makes them absolutely dependent on the good offices of their Minister for the time being.

The reason why the Civil Code contains no provision for Perpetual Leases can only be matter of surmise, but it has been stated that when subsequently these titles had to be dealt with, the Government found themselves under the necessity of making a new law to recognize perpetual leases or of classifying foreigners' rights under one or other of the rights named in the Civil Code. They did not make the new law, and the right they chose was superficies. If that is the true origin of the application of the term to foreign settlement property it seems impossible to argue now that this is quite a different kind of superficies to what is named in the Civil Code.

The first mention of foreign settlement property under the heading of superficies is to be found in Article 45 of the Law concerning the operation of the Civil Code, and the meaning of the word superficies when used in that law cannot be otherwise than its meaning as defined in the Civil Code itself. The assumption of title upon which Article 45 proceeds is therefore interpreted as a declaration by the Diet that foreigners have nothing more than a right of superficies such as is defined in the Civil Code. That is taken to be the construction which the Diet has put upon the perpetual leases, and it is quite

contrary

contrary to the construction which the United States Government would put upon them, United States citizens who are landrenters think that they are justified in claiming protection. It is not overlooked that the provisions of the Civil Code apply only so far as it is not otherwise provided by treaty; but the treaty has nothing to do with the nature and the definition of a superficies and the landrenter fear that once they are caught in that net they will never escape from it. It is submitted that a perpetual lease is in its nature a different thing from a superficies, and that the classing of foreigners' rights as superficies is of itself a breach of the treaty.

Again, since the law of Japan knows no other kind of superficies than that which is defined in the Civil Code, and since Article 45 has classed foreign settlement property under the heading of superficies, it would be quite outside the scope of an Imperial Ordinance to declare that the foreign settlement superficies are not the superficies of the Civil Code but that they have all the attributes of a perpetual lease. The Imperial Ordinance No.458 was issued under the very limited authority conferred by Law No.71 of the 18th March, 1899. The authority was strictly confined to the making of provisions for registration, and therefore it is impossible to read the Ordinance as making any declaration concerning the nature of a superficies. The object of inserting the words "Perpetual Lease" in brackets appears to have been to mark the registration as referring to superficies which are within Article 45.

It is suggested that Viscount Aoki's notes may be interpreted as follows:

(1) If reference is made to Article 45 it will be seen that perpetual leases are recognized as a "special kind of superficies

"superficies" because the provisions of the Civil Code apply only so far as is not otherwise provided by treaty or regulation. In 12 years time the treaty may have expired and there will no longer be anything special about these superficies. They will have very few years to run to complete the full term of 50 years to which they are limited by Article 268 of the Civil Code and therefore the Government or any private individual who may by that time have acquired the ownership (i.e.reversion) of the land will be able to claim an extinguishment of the superficies upon short notice without compensation. (When Viscount Aoki writes that "they are not super-"ficies under the provisions of the Civil Code" he contradicts the words of the law which he cites)

(2) "After registration the title deeds will still have "the same validity as before". To determine what that validity is we must refer to Article 45, and we find that the title conferred is declared to be superficies.

(3) "The Imperial Ordinance No.458 makes it clearer that "the so-called superficies is a perpetual lease". That is to say the Imperial Ordinance bears out Article 45 that superficies and perpetual lease are the same thing and that, superficies being the only title recognized by law, it must prevail. When a transfer or other transaction takes place the Local Court is bound to register the title as a superficies (Perpetual Lease) but the words in brackets cannot alter the meaning of superficies as defined in the Civil Code.

Landrenter object that under the superficies title they may be unduly restricted in the enjoyment of their land, and the perpetuity of their holdings is threatened. Until something be done to ameliorate the situation, their land is rendered unmarketable except at greatly reduced prices, since no one

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wishes to purchase a property with a doubtful title which may involve him in heavy lawsuits and other expenses with or without good result. It is difficult even to obtain adequate advances on mortgage because nobody can tell what the extent of the depreciation may be which will be caused by the uncertainty of the position, and there is besides the danger that in the event of bankruptcy the owner of the land (whether the Government or private individuals) may claim an extinguishment of the superficies and the money advanced will be entirelt lost.

From the facts mentioned above and also from Imperial Ordinance No.333, which extinguishes the right of superficies or perpetual lease when a transfer is made to Japanese, it seems clear that there has been no confirmation of the existence in perpetuity of the right of perpetual lease and that the Government is especially anxious to abolish this exceptional form of tenure.

To the argument that no laws now made can bind the Government deyond the duration of the treaties, the United States citizens who are landrenters reply that they at least do not wish to supply the Government (or the private persons who may acquire the right of the Government) with a weapon which can afterwards be used against them with some appearance of right. As matters stand now, the extinguishment of the superficies would come as the natural consequence of an already existing law, but the position would be quite different if the leases in perpetuity were recognized by law and were registered under a proper heading.

D and E But, presuming that the wording of the Ordinance 458 was correct, -which cannot be admitted- there is another point demanding consideration. Under the present system , transfers of land are recorded in the Kencho, while the buildings thereon

thereon are registered in the Local Court. Now, as a rule, land and buildings change hands together, and in such case it may happen that the Kencho enters the transfer of the land, while the Court refuses to register the transfer of the buildings. This would be especially inconvenient when a seller reserves to himself a mortgage on land and buildings. In every way the connection of land and buildings is so close that all business relating to their recording should necessarily be transacted by the same office, i.e. in the present case either by the Kencho (Prefectural Office) or by the Court. But besides this it must not be forgotten that as the lands and the buildings have to be registered separately although the transfer of land is effected free of cost, a heavy fee of 2 1/2 per cent on their value is imposed on the registration of buildings whenever there is a change of ownership notwithstanding the fact that the imposition of such a fee is entirely opposed to the text and spirit of the various treaties, as it is a "charge" on the property other than those contained in existing leases. In the leasesthe method of transfer is defined, and as the so-called "ground rent" was intended originally to cover ALL taxes and imposts on the lands and buildings thereon, and as it was originally arranged that registrations at the Kencho (local Prefectural Office) should be effected free of charge, it is evident that this fee cannot be legally collected by the Japanese Government.

The laws of Japan do not except Settlement property from the operation of the laws which affect immovable property generally, and in relation to the subject matter of this memorandum the chief of those laws are:

1. The law concerning stamp duties.

Law No.54 of March 9th ,1899. providing

providing that any person making a document whose object is to prove the creation, transfer, alteration, or extinction of a property right, or a document whose object is to prove a ratification or acknowledgement in regard to a property right, is required to pay stamp duty at the rate of 5 per 10,000 on the amount specified in the document or to be calculated from it, if such amount is 5 yen or more, (but in no case to pay more than 50 yen).

2. The Law of Registration of Immovable Properties.

Law No.24 of February 23rd, 1899.

This law provides for registration (upon the application of both parties) of the creation, transfer, change, limited disposal, or extinction of the following rights relating to immovable property, namely:

(1) Ownership. (2) Superficies. (3) Emphyteusis. (4) Servitudes. (5) Preferential rights. (6) Pledge. (7) Mortgage. (8) Hiring.

Amongst the rights so mentioned there is none which corresponds to a lease in perpetuity, but that is clearly an oversight of the legislature who cannot have intended that the lease itself should remain unregistered when registration of derivative rights was made necessary. The place named for the registration is NOT the Kanagawa Kencho (as provided in the Yokohama leases) but the local court having jurisdiction over the district where the property is situated. It is true that under Ordinance No.458 the Kencho will now register the leases (only however, under the title of "Superficies" which whatever it may be is clearly not a lease) but in order to register the houses and other rights - which registration is absolutely necessary under Article 177 of the Civil Code - application must be made to the Courts, and it is here that the trouble and expense commences.....Article 177 of the Civil Code reads:

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"The acquisition or loss of, or any alteration in a real "right in an immovable can be set up against third persons "only if such fact has been recognized according to the pro- "visions of the Law of Registration". There is also a special ordinance which relates exclusively to the rights of foreigners, viz.

3. Imperial Ordinance No.329, 6th July 1899.

(Modified by Imperial Ordinance No.458, 27th December 1899) provides that if a right in an immovable has been duly acquired by a foreigner before the time fixed for the taking effect of the new treaties, but has not been registered , it cannot set up against third person unless it is registered within one year from such time. This period has been extended (by Ordinance No.458) up to the 31st December 1900.

4. The Laws concerning Registration Tax. Laws No.27 March 1896; and No.32 March 29th, 1899.

These laws provide that when registration is effected, a registration tax shall be paid in accordance with the schedule set out in the enactments, and the tax named in regard to immovables ranges in respect of each transaction from 1 per 1000 to 4 per cent, on the value of the immovable or of the obligation which is registered as charged upon it. Land and buildings are registered separately.

5. The Laws concerning Business Tax. Law No.33, March 1896 and Law No.32, March 1899.

These laws impose a tax of from two per cent on the rental values of the lands and houses used for business purposes, provision being made for estimating separately, in certain cases, the values of the land and of the houses upon it. This tax is in addition to taxes to be levied upon capital employed in business and upon income derived therefrom.

6. Income Tax Law. Law No.17, February 10th, 1899. Incomes derived from various sources including property are liable to pay a tax of from 1 per cent to 5 ½ per cent.

7. There are also the house tax and numerous local rates and taxes which are levied upon houses and lands. It must be remembered that the House Tax and Business Tax on the rental value of buildings are not exclusively taxes on buildings as might be inferred from the names by which they are known. They are also a tax on the land which is used for business or for building purposes, and foreigners use very little land for any other purpose. A study of the House Tax Assessment Regulations will show that in order to calculate the sum payable for House Tax the buildings are measured and are classified according to their construction, and a result is arrived at depending on the size and the class of the building. To that extent the tax might properly be described as a tax on buildings, but the regulations show that this result is multiplied by an index number which is derived from a classification of land made , according to its supposed value, for the purpose of fixing the amount payable for land tax, and it is strongly felt that at least to the extent of the result of this multiplication the so-called House Tax is a charge upon land or upon the occupation of land, and is improper, whatever the true construction of the words of the treaty may be. Foreign Settlement lands have not been included in the Land Tax classification and their Index Number is now arbitrarily put at 3.5 for the Bluff and 4.5 for the lower Settlement. Not only are these figures very unjust in putting the same value upon poorer land as upon the best but there can be no justification for using the index number of land in such a way as to compel foreigners to pay as House Tax three and a half and four and a half times the amount which

which is arrived at by a consideration of the size and construction of their houses only. In relation to the business tax similar considerations apply and it seems unnecessary in this place to do more than refer to Article XVIII of the Business Tax Law which expressly states that "The rental value "of the buildings" comprises the rent of the land and houses used for the purposes of business.

If properties in the former Settlements are to be subject to the general system of rating and taxation and to the operation of the laws and ordinances mentioned, it is evident that their enjoyment is no longer secured upon the same conditions as hitherto, since the ground rent is no longer an all covering payment, and new and costly registrations are necessary upon every transaction creating or relating to what is called a feal right in property. The requirement under the Imperial Ordinance is especially oppressive, because it relates to past transactions and in many cases the absence or death or disinclination of the other parties will render it quite impossible for the persons beneficially entitled to secure registration of rights which under extra-territoriality were perfectly good without registration.

CONDITIONS OF TENURE

A Settlement properties owned by foreigners are held under deeds of lease from the Japanese Government. These leases were issued in virtue of certain Conventions with Foreign Powers many years ago and they create peculiar and distinctive rights of ownership practically not inferior to those mentioned in Article 206 and 207 of the Civil Code of Japan.

Article 206. An owner has, within the limits prescribed by law the right freely to use, profit by, and deal with the thing

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he owns.

Article 207. The right of ownership of land extends, within the limits prescribed by law, to what is above and below it. The lands are virtually held in fee simple except for certain conditions expressed in the deeds of lease, and as long as the holders or their heirs executore administrators or assigns fulfill those conditions the rights over the lands are reserved and secured to them in perpetuity.

B Under these Conventional Perpetual Leases foreign "Lease "holders" are to all intents and purposes owners having the right to freely use, profit by, and deal with the land they lease; and the right of their ownership extends to what is above and below the ground in the absence of any provision to the contrary. The rights created by the deeds are ample, extensive, and unqualified and are in no way to be confounded with thoses "Superficiary Rights" mentioned in Article 265 of the Civil Code which are distinctly restricted to "the right "to use the land of another person for the purpose of owning "thereon buildings, or bamboos and trees".

C The Japanese Government has stipulated for no fee or payment other than the annual ground rent. This ground rent was arbitrarily fixed at a rate far in excess of similar payments made by Japanese subjects at the time, and it is evident from the text of the various Conventions, and has always been understood by property holders, that their land and buildings were thereby freed from any liability to taxation or further payment to the Japanese Authorities. The Settlement lots were actually SOLD to foreigners - largely by auction- at so much per tsubo, and it is manifestly absurd to suppose that they co could be called upon to pay "ground rent" on their own property It is therefore apparent from the nature of the annual payment demanded

demanded under the circumstances that this so-called "ground "rent" is equivalent to nothing more nor less than a sum paid as commutation of all taxes. In support of this view a mass of direct evidence exists in the various regulations approved of by and the memorandums arrangements and conventions entered into from 1860 to 1871 by the Consuls of Powers having treaties with Japan. The principal documents relied upon in this connection are :

1. Land regulations for the Port of Yokohama drawn up at Kanagawa August ...1860;

2. "Memorandum of Land Regulations" drawn up at Nagasaki on the 29th September 1860;

3. "Memorandum for the Foreign Settlement at Yokohama", dated 19th December 1864;

4. "Arrangements for the Establishment of Foreign Settle- "ments at the Port of Hiogo and at Osaka", dated 16th May 1867.

5. "Further Arrangements relative to the Foreign Settlement at "Yedo", dated 3rd May 1870 (also "Conditions of the Public sale of the Leases of Land in the Foreign Settlement at Yedo" same date);

6. "Arrangement for the Control and Management of the "Municipal Affairs of the Foreign Settlement of Yokohama" dated 17th December 1871.

7. The receipts issued by the Government for monies paid for lots, which stated that "the sum of Mexican dollars..... "had been received in full of PURCHASE money of Lot No....." These receipts do not say anything about "leases" and the Japanese text of the translation upon them distinctly states that the money was paid for the land (jisho)

In short, the treaties, diplomatic notes, conventions, consular representations, title deeds, receipts, the circum-

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15

stances, and the subsequent conduct of the parties reveal the intention of the authorities and persons interested; and these all point to the fact that the so-called "ground rent" was agreed to in lieu of taxation.

D and E Although buildings on the Settlement Lots are not held under lease in the same sense as the land and although they are beyond dispute the absolute property of foreigners, it is firmly believed and maintained that all possible taxes on such buildings were included in the commutation fees paid annually under the name of "ground rent". It is true that the buildings were not in existence at the dates of the original grants but the leases were made for building purposes and the ownership of all buildings which should thereafter exist upon the land was expressed in the leases to be subject to an observance of the conditions therein contained, so that buildings and land are in fact equally "held under the leases" and are well included under the word "property" which is used in both the United States and Japanese versions of the treaty, and is a wider term than would be used if only the land was intended. It must also be borne in mind that in many instances the holders were required under penalty of forfeiture, to erect, within six months, buildings of a stipulated value on every 100 tsubo of land! Moreover the argument here put forward is confirmed by Article XVII of the United States Treaty with Japan signed at Washington on the 22nd November 1894, the last paragraph of which reads:

"When such incorporation (of the several Foreign Settle-
"ments with the respective Japanese Communes) takes place
"existing leases in perpetuity upon which property is now
"held in the said Settlements shall be confirmed, and no
"conditions whatever other than those contained in such
"existing leases existing

16

"existing leases shall be imposed in respect of such "property. It is, however, understood that the Consular "Authorities mentioned in the same are in all cases to be "replaced by the Japanese Authorities. ALL LANDS which "may previously have been granted by the Japanese Govern- "ment free of rent for the public purposes of the said "Settlements shall, subject to the right of eminent domain "be permanently reserved free of all taxes and charges "for the public purposes for which they were originally "set apart".

It will be observed that the word "property" is used in speaking of real estate held under the leases, whereas the word "land" is employed in designating grounds granted free of rent for public purposes, and it is submitted that this wording clearly reveals the fact that in one case land and something attached to it was meant, while in the other case land only was contemplated. It is considered that the words of the treaty must be interpreted according to the law of the United States because the treaty was negotiated in the United States and the properties referred to were properties in Japan which were then held by United States citizens or which should afterwards, before the coming into operation of the treaty, be so held. To such properties the law of the United States applied until the 17th of July last when they became subject, with certain important restrictions, to the law of Japan. It cannot be doubted that the law of the United States would regard the land and buildings as being held under one and the same title, and any other construction would seem to be quite contrary to the spirit of the treaty. It would assume an intention to protect the land but at the same time to lay open to

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new conditions the buildings which alone give value to the land. The United States treaty is further confirmed by Article XXI of the French treaty with Japan signed at Paris on the 4th August 1896, which reads:

"Lorsque les changements ci-dessus indiqués auront été "éffectués, les baux à perpetuité en vertu desquels les "étrangers possèdent actuellement des propriétés dans les "quartiers seront confirmés, et les propriétés de cette "nature ne donneront lieu a aucuns impôts, taxes, charges, "contributions, ou conditions quelconques autres que ceux "expressement stipulés dans les baux en question. Il est "entendu toutefois qu'aux Autorités consulaires dont il y "est fait mention seront substituées les Autorités japon- "aises.

"Les terrains que le Gouvernement japonais aurait concedés "exempte de rentes, vu l'usage publique auquel ils étaient "affectés, resteront, sous la reserve des droits de la "souveraineté territoriale, affranchis d'une manière "permanente de ttouts impôts, taxes et charges; et ils " ne seront point detournés de l'usage auquel ils etaient "primitivement destinés."

It is noteworthy that the French treaty and its Japanese translation also use the special words "proprietes" (in Japanese "fudō-san") and "terrains" (in Japanese "jisho") showing the intention of the parties to discriminate between the terms where necessary. The word "fudō-san" in the Japanese text used to translate "proprietés" is a technical legal word meaning "real estates" or "immovables" and is thus employed in Article 86, 87, and 242 of the Civil Code of Japan. What is meant by "fudō-san" (i.e. "proprietés") is very clear on reference to

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the Civil Code:

Article 86. "Land and things fixed to it are immovables. "(fudō-san) The word used in the Japanese text of the treaty "with France)

"All other things are movables.

"Obligations performable to bearer are deemed to be movables"

Article 87. "If the owner of a thing attaches to it ano- "ther thing owned by him for permanent use in connection with "it, the thing attached becomes an accessory. The accessory "thing is subject to all dispositions made of the principal "thing."

Article 242. "The owner of an immovable thing (fudō-san) "acquires the ownership of a thing which is attached to it as "an accessory; but this does not affect the rights of a person "who by virtue of a special title has attached the thing to the "other".

A transfer of real estate in all civilized countries carries with it (unless mention to the contrary is specially made in the transfer) all immovables thereon. It therefore seems to us very evident that the foreign Treaty Powers undoubtedly meant to include the houses and fixtures on the land when referring to properties in the former Settlements; and the French treaty confirms this idea by the careful distinction made in referring to land and buildings as "properties" and vacan lands as "terrains" (the Japanese text is even clearer if anything!)

For forty years--a period longer than even the longest term of prescription contemplated by the Civil Code of Japan--foreigners have held properties (i.e. land and buildings) in question and peacefully and openly exercised their rights over those properties and been in undisturbed and open possession

sion of both lands and houses. During this period most of the various lots and the structures thereon have changed hands- several times over in many cases- and successive purchasers have acquired possession by paying for the rights in all good faith, ever believing that no conditions whatsoever other than those contained in their leases would be imposed, and that therefore any taxes on the properties acquired were fully covered and included in the "ground rents" paid by holders and accepted without protest or objection by the Japanese Government. Elphinstone on the "Interpretation of Deeds" quotes the following remarks from the English case Drummond v. Attorney General:

"One of the most settled rules of law for the construction "of ambiguities in ancient instruments is, that you may resort "to contemporaneous usage to ascertain the meaning of the deed; "tell me what you have done under such a deed, and I will tell "you what that deed means....Contemporaneous usage is, indeed a "strong ground for the interpretation of doubtful words or ex- "presssions....In construing an ancient instrument, you may look "to the usage to see in what sense the words were used at the "time."

Although there can be no doubt at all as to the meaning of Article XVII of the treaty with the United States, it is yet well to remember that the Japanese Government has entered into a solemn treaty engagement with France with regard to properties held by French citizens in the former Settlements under deeds of lease in the following plain and obvious words:

"The perpetual leases in virtue of which foreigners now "hold real estate in the Settlements, shall be confirmed and no "imposts, taxes, charges, contributions, or conditions other "than those expressly stipulated in the leases in question "shall be imposed upon real estate of this nature."

Article

Article 1 of the United States treaty now in force reads:

"They (i.e.U.S.citizens) shall not be compelled, under "any pretext whatsoever, to pay any charges or taxes other or "higher than those that are, or may be, paid by native subjects "or citizens, or subjects or citizens of the most favored nation."

Under this Article, and in accordance with the recognized principles of international law, United States citizens have the right to participate in all privileges immunities and advantages which have been granted, or may hereafter be granted by the Japanese Government to the citizens or subjects of any other nation. United States subjects are therefore entitled to the full benefit of all exemptions and privileges which French citizens are entitled to claim inrespect to the properties held by them in the former foreign Settlements.

(Sig.) John Lindsley

(Sig.) Eugene S.Booth.

Encl. No. 3, with
Mr. Buck's No. 417.

(Translation Copy)

The Viscount Aoki, Minister for Foreign Affairs
to Mr. Harmand, Minister of France at Tokyo.

Tokyo, February 26, 1900.

Monsieur le Ministre,

I have examined the letter which Your Excellency did me the honor to write me on the 9 of the current month on the subject of the title to lease in perpetuity. As I told you in my letter of the 3, the provisions of the Civil Code which may be in conflict with those of the treaties are, naturally, not applied to the title to lease in perpetuity. The provision which, in Art. 268 of the Civil Code, limits the titles of holders of superficies, it goes without saying, and, as a general rule, all the provisions which imply conditions other than those which are written in the titles to leases in perpetuity, do not apply to these.

Accept &c, &c.

(Signed) Vt. Aoki.

LAND REGISTRATION QUESTION.

WE do not think there is the slightest probability that the Japanese Government will ask the Diet to legislate in the sense indicated by the Meeting of Land-Renters on the 19th instant. Moreover, inquiries subsequently made convince us that if the Government's position were fully understood, the desire for special legislation would cease to be entertained. Perhaps the easiest way to explain the facts will be to examine the Resolutions adopted at the Meeting in order to ascertain how far they consist with the step that the Government has already taken.

The first Resolution says :—

1. That although the revised treaties provide that the existing Government leases in perpetuity of foreign settlement property shall be confirmed, steps have not yet been taken by the Government to confirm them, and the laws of Japan appear to contemplate their compulsory conversion into a new and different kind of right, which is called "superficies."

Now, according to the Government's view, which we believe that our inquiries have enabled us to understand, it is emphatically denied that "steps have not yet been taken to confirm the perpetual leases." Without referring to the course originally pursued by the Government, if we turn to the Imperial Ordinance of December 27th, we find that the title-deeds of the lands held by foreigners in the Settlements are textually confirmed. All transfers are to be entered on the title-deed by the *Chihōchō*, and the latter has to submit a copy of the title-deed to the registrar when requiring him to register a transfer. Our readers are probably aware that in the ordinary routine of Japanese legal procedure, title-deeds are quite unnecessary. In fact, they may be said to have no existence. Their place is taken by a copy of the register. The owner of land need never encumber himself with a title-deed of any kind, the validity of his right being established by the register alone. But the Imperial Ordinance of December 27th recognises title-deeds as essential in the case of the Settlement lands, and thus effectually differentiates their tenure from the ordinary kind of tenure provided by law. In a word, the Ordinance confirms the leases.

In the next place, it is emphatically denied that "the laws of Japan contemplate the compulsory conversion of the leases into a new and different kind of right called 'superficies'". There is not to be any conversion of the leases into any other form of right whatsoever. They will stand exactly as they are now for all time, their form unchanged and their phraseology unaltered.

Let us now take the second Resolution :—

2. That under existing laws the right of perpetual lease is not recognised, and since the coming into operation of the revised treaties the holders of such leases have been unable to sell or mortgage their land except on the terms of allowing the leasehold interest to be registered as a "superficies," which they have been and are unwilling to do.

As to this, it is quite true that the right of perpetual lease is not legally recognised for Japanese subjects, but it is a mistake to allege that the foreign holders of the Settlement leases can not sell their land "except on the terms of allowing the leasehold interest to be registered as a 'superficies.'" Registration—that is to say, the entry of a record in the books of the local office—is not necessary to the validity of a transfer in the case of Settlement lands. The first Article of the Ordinance of December 27th says :—

When a superficies (perpetual lease) created in a foreign settlement is transferred, such transfer can not be set up against a third person unless it is entered in the title deed by the *Chihocho* of the place where such land is situated.

Entry in the title-deed, not registration at the local office, establishes the validity of the transfer. Here again a foreigner's right is distinctly differentiated from that of a Japanese, for whereas the latter acquires validity by registration and by registration only, the former acquires validity by an entry in the deed, and need not be registered, though provision is duly made for its registration.

But, it may be argued, the *Chihōchō*, after making the entry in the title-deed, is required by the Ordinance to register it, and the registrar has to record it as a "superficies," so that, in the upshot, the foreigner's tenure is converted into a "superficies." To this there are three replies. First, the foreigner's right does not undergo any process of conversion whatever. It is not affected by registration. The title-deed determines it, and the title-deed remains unaltered for all time. Secondly, the registration being undertaken by the Japanese Authorities themselves for the convenience of their records, its form does not really concern the foreigner at all. If he were asked to place himself on the same footing as a Japanese landholder, namely, to tear up his title-deed and derive his right solely from the entry in the register, the phraseology of the latter would be of vital importance to him. But he is not asked to do anything of the kind. He preserves his title-deed; he derives his right from it, and the nature of his tenure is quite independent of the registration. Thirdly, even assuming that the conversion spoken of in the Resolution did take place, it would not be conversion into "superficies." It would be conversion into "superficies" qualified by "perpetual lease" in brackets. The difference is fundamental. A law court, on application by a land-owner, has competence to set a fifty-years' limit to a "superficies" of which the period is not fixed. But a law court has no competence to deal in that manner with a "superficies" qualified by the addition "perpetual lease." Such a title is removed beyond the reach of the interference to which an ordinary "superficies" is subject. It is, in fact, a specially protected title, and that the Government has power to afford this special protection is established by the 45th Article of the Law of Application of the Civil Code, which says :—

With regard to superficiary land rights acquired by foreigners or foreign juridical persons, the provisions of the Civil Code shall be applicable only in cases not specially provided for by treaty or order.

This most important Article deserves attention. Its effect is to remove from the purview of the Civil Code all rights of land tenure acquired by foreigners under the special provisions of treaties or orders. The treaties create a special right of land tenure with in the limits of the former Settlements, and that right have been confirmed by Imperial Ordinance. It is thus absolutely certain that a Court of Law has no competence to apply the provisions of the Civil Code in the sense of abridging or impairing the title of the foreign land-holder. But although even this point is thus capable of satisfactory explanation, the fact must always be borne in mind that the foreign land-holder's right is derived, and will continue to be derived, not from an entry in the register, but from his title deed.

It is unnecessary to refer in detail to the third Resolution, because it is answered by what we have already stated. There has not been any "non-recognition of what foreigners conceive to be a right secured by their title deeds and by treaty," nor is there any valid reason why sales of property should have been stopped.

The fourth Resolution says :—

4. That in order to remedy the evils of the situation, and to restore confidence, it is most desirable that the Imperial Japanese Government shall at once confirm the aforesaid leases in perpetuity and make all necessary provisions for their recognition by law, and for the registration of them under a separate designation.

As a matter of fact, the leases *have* been confirmed in perpetuity, and provision *has* been made for their registration under a separate designation. But the meaning of the Resolution is that the Legislature should be duly invited to pass an enactment providing for the registration of the titles as "perpetual leases." It is certain that the Legislature could never be persuaded to do anything of the kind. Were such a Bill submitted to it, the first question asked would be :—"Is this step necessary? Is it essential that a new kind of nomenclature should be created by law in order to give effect to the treaties?" Obviously the Government Delegates could not answer in the affirmative. They would have to say :—"No. In the due exercise of the powers already vested in us, we have provided a method which, in our opinion, satisfies all the requirements of the case." The next question would be :—"Then why this proposal for special legislation?" and the reply must follow :—"Because the foreign land-holders are not satisfied with the method we devised and established by Imperial Ordinance." Would

No. 4(a).
with
Mr. Bucks
No. 417.

any Parliament in the world pass a Bill presented to it on such grounds, or could any Cabinet be reasonably asked to present such a Bill? The Japanese Government has adopted a certain course for giving effect to its treaty engagements, and it is fully persuaded that by pursuing that course it can guarantee the foreign land-holder against the smallest infraction of his rights. Thus the matter finally resolves itself into this:—What foreign land-holders object to is, not the Japanese Government's failure to carry out its treaty engagements, but the manner it has chosen to carry them out. Have they a just right to raise such an objection so long as there is no disturbance of their titles?

There is another point to be considered. If the Diet were invited to legislate in the sense of creating a new legal designation for registering foreign titles in land, would it consent to waive the payment of registration fees? Most assuredly it would not. The Government has contrived to secure exemption for the foreigner by transferring the duty of registration from his shoulders to those of the *Chihocho*, but he must be a very sanguine man indeed who imagines that a majority in the House of Representatives could be persuaded to endorse scuh differentiation in favour of the foreigner while, at the same time, throwing open the registers to him.

Finally it must always be remembered that the perpetuity of the title "superfices" is guaranteed so long as the owner of the land does not attempt to disturb it. The Government is pledged by treaty to confirm the perpetuity of the foreigners' leases. Hence, any doubt cast upon "superficies" in such a context is a doubt cast upon the Government's respect for its treaty engagements. But, in point of fact, the title is not converted into "superficies" nor even into "superficies" with "perpetual lease" in brackets. The title remains as it has always been, and is not in any way effected by registration.

Our readers will perceive that we have not spoken of mortgages. The Imperial Ordinance of December 27th makes no mention of mortgages, and we are not aware what procedure is contemplated with regard to them. That seems to be a serious omission.

We have stated the case as clearly as possible in conformity with the result of our investigations, for we feel that, the more thoroughly it is understood, the more quickly will the present dead-lock be resolved. There is still one phase of the question which should be noticed, though we do not imagine that any one attaches practical importance to it. It is the suspicion that although the 45th Article of the Law of Operation of the Civil Code enables the Government now to remove the foreign titles beyond the reach of the Code, the protection thus given will cease when the treaty terminates 12 years hence. In other words, the Government, though pledged by treaty to recognise the perpetuity of the leases, will be guilty of the chicanery of interpreting "perpetuity" to mean "12 years," and will withdraw the protection of the Ordinance. Well, even granting the possibility of such a wild chimera, would the danger be averted by having the titles registered as "perpetual leases?" If the Government can not be trusted to keep its solemn engagements, can the Diet be trusted? If it be conceivable that the Government should resort to the twelve-year subterfuge, is it not at least equally conceivable that the Diet, at the end of 12 years, might rescind the special law which the land-renters now desire to have passed, and might decline to continue the system of differentiation? Truly this line of objection does not deserve analysis. If the Government's *bona fides* can not be credited, there is little to be hoped from the liberality of the Diet. But we may take it for granted that neither Government nor Diet will ever be guilty of the gross dishonesty of pretending that a promise to confirm a perpetual lease holds good for 12 years only.

A NEW VIEW OF THE BUDDHIST AGITATION.

MR. "Miyake Setsurei" contributes one of his invariably interesting articles to the *Nippon*, taking for them the agitation now fomented by certain sections of Buddhists against the Government's Religions Bill. The upset of his comments is that the basis of the trouble is political, and for proof of that view he goes back as far as the sixteenth century. In the days of OTA NOBUNAGA and HIDEYOSHI, the *Taiko*, the great Shin sect had only one principal place of worship, the Nishi Hongwan-ji. Upon that temple the *Taiko* bestowed his favour and thither one of the most beautiful pavilions of the Palace of Pleasure was conveyed after the treason of HIDETSUGU and the consequent demolition of the Palace. But IYEYASU, the Tokugawa chief, removed his patronage from KOSHO the hierarch of Nishi Hongwan-ji, and gave it to a rival, KOFU, the result being the founding, in a later era, of the splendid temple, Higashi Hongwan-ji. While the Tokugawa held administrative sway every Japanese subject had to register himself as a Buddhist. Whatever his real convictions might be, the only method of escaping the stigma of Christianity was to have his name borne upon the books of some temple. Buddhism thus acquired factitious importance and flourished correspondingly. The Shin sect obtained immense influence. In the western provinces the sway of the Higashi Hongwan-ji became paramount, but in Nagato, Suwo and parts of Kwanto, Oshiu and Kiushiu the rival and older temple, Nishi Hon-

The Japan Daily Mail.

YOKOHAMA. WEDNESDAY. FEBRUARY 14. 1900.

No. 461
with
Mr. Buck's
No. 417.

LAND TITLES IN YOKOHAMA.

The provisions of Japanese law, as applicable to the titles under which landed property is held by foreigners in the former settlements, seem to be still misapprehended. A local contemporary warns its readers that the leases they possess are of no value in the eyes of a law court since the latter is bound to consider the certified entry in the register only, and can not take any notice of a lease. Such an assertion is apt to create much disquiet in the minds of land-holders, and we ask them, therefore, to listen to a few plain facts.

The first of these facts is that, according to the explicit language of the 45th Article of the Law of Application of the Civil Code, the titles under which foreigners hold their Settlements lands are excluded from the scope of the Code. A court of law, asked to deal with such titles, would be clearly exceeding its powers if it attempted to apply to them the provisions of the Civil Code as they stand. An Imperial Ordinance, issued in compliance with the Government's treaty obligations, has distinctly guaranteed the titles against such treatment, and a law court is bound by the terms of the law to respect that Ordinance.

The second of these facts is that a flagrant breach of its treaty obligations on the Government's part, must precede any reference of such questions to a law court. No law court has competence to interfere arbitrarily between landlord and tenant. It has nothing whatever to do with their relations so long as its interference is not solicited by one side or the other. Now the Government has entered into a solemn international contract that it will respect the perpetuity of foreigners' titles. Does any one seriously imagine that there is the faintest danger of the Government's appealing to a Court of law to invalidate that contract? The notion seems to us quite farcical. Japan has always adhered to her treaty engagements with scrupulous good faith. Is it likely that she will now deliberately perpetrate a most iniquitous and conspicuous violation of them? So long as she does not attempt such an act of dishonesty, the law courts can never be invited to deal with the land titles, since their power to interfere can not be exercised until one of the parties makes formal application for its exercise.

The third of these facts is that if the Japanese Government is so unworthy of confidence, the idea that it could be held to its engagements by a mere distinction of phraseology is surely a little extravagant. In order to approach a law court in the sense apprehended, the Government, *quâ* Government, would have to begin by rescinding its own Ordinance of last December; and then, *quâ* landlord, it would have to make application to the law courts in diametrical opposition to its treaty pledges. Assuming for a moment that there is danger of such procedure, would the danger be averted by special legislation providing for the registration of foreigners' titles as "perpetual leases?" Could not a Government, so careless of its obligations, submit a Bill, at any time in the future, asking the Diet to put an end to the discrimination in favour of foreign leases? It seems to us that one danger is just as real as the other. So soon as we begin to grapple with chimæras, there is no limit to the operation.

The plain truth is that the Government has availed itself of the powers vested in it by law to give effect to its treaty engagements, and that, so long as it observes those engagements, the foreign land-holder is safe. If it ceases to respect its treaty pledges, then indeed the deluge may sweep away more things than land leases.

THE LAND QUESTION.

Referring to the vexed question of the registration of foreign land-holders' titles the *Japan Herald* declares it to be a fact that "the Japanese Government is virtually attempting to rescind a right guaranteed by treaty," and calls that "a more difficult thing to accomplish" than the rescinding of an Ordinance. Indeed, our contemporary goes so far as to allege that "the rescinding of one of the Government's own Ordinances, with the assent of the Diet, would not probably prove of much difficulty." We do not suppose that there is any intention on our contemporary's part of preferring an accusation of deliberate bad faith against the Japanese Government. The land-renters, at their recent meeting, were most careful to show that they did not entertain such a suspicion. Our contemporary doubtless means that the use of the term "superficies (perpetual lease)" amounts, in effect, to an abrogation of the right of "perpetual lease." In short, the addition of the word "superficies" is the whole subject of complaint. But the Japanese Government's reply, as we understand it, is that they have fully recognised, and do fully recognise, the right of "perpetual lease," and that in registering it as a "perpetual lease of the surface of the ground," they are simply adopting the most convenient nomenclature furnished by existing laws. To alter that arrangement would be to admit that it exposes the land-holder to dangers against which the Government is pledged by treaty to protect him, and we do not think it probable that such an admission will be made. If any of the persons that condemn the arrangement would take the trouble to state a case showing how the danger they apprehend can be incurred, it would be easier to understand their position. Will they say in plain terms what they fear and how their fear could be realized. A descent from the clouds of vague suspicion to the region of hard facts would be welcome.

Now, as to our contemporary's assertion that "the rescinding of one of the Government's own Ordinances, with the assent of the Diet, would not probably prove of much difficulty," we would inquire, what then is the security desired? The resolutions passed at the land-owners' meeting asked for the registration of their title in the unadulterated form of "perpetual lease." How could that be effected? Obviously by an Ordinance of the Government with the Diet's endorsement, or by a law of the Diet with the Government's endorsement. But we are now told that the rescinding of such an instrument "would not probably prove of much difficulty." What is to be done then? If neither the Government nor the Diet can be trusted to observe the country's treaty obligations, where can security be found? And what is the use of setting so much store by a particular form of phraseology if the ordinance or law embodying it may be at any moment annulled without "much difficulty"? Discuss this question how we may, the point of departure and the point of arrival must always be Japan's Conventional *bona fides*. If that be a myth, then no Japanese ordinance or law can transmute it into a reality.

Encl No. 4 (c) with
Mr. Buck's No. 417.

The Japan Daily Mail.

YOKOHAMA. FRIDAY, MARCH 2, 1900.

THE LAND QUESTION.

It really does seem that the persons who have undertaken to journalistically represent the foreign land-holders are determined to be dissatisfied, whatever may be done to satisfy them. Hitherto, their main, indeed we may say their only, ground of complaint has been that in the registration of their titles the term "superficies" is used—not "superficies," pure and simple, but "superficies" with the words "perpetual lease" in brackets, these words being added for the purpose of distinguishing the titles as treaty rights to which the provisions of the Civil Code do not apply. Nevertheless, the foreign land-holders objected to the term "superficies" being employed in connexion with their leases. They claimed that the form of tenure known as superficies is subjected by the laws of Japan to certain limitations which do not apply to the "perpetual leases" contemplated by the treaties. That, we say, was the whole objection. It is clearly set forth in the first resolution passed by the public meeting of January 19th, which says that "the laws of Japan appear to contemplate the compulsory conversion of the perpetual leases into a new and different kind of right which is called superficies." Clear proof has been furnished that the above resolution was framed under a misapprehension, since the land titles held by foreigners under the treaties are explicitly exempted from the provisions of the Civil Code, and since those titles are not to be changed in any way, the addition of the term "superficies" being merely for convenience of registration. To make assurance doubly sure, the French Representative obtained from the Japanese Minister of State for Foreign Affairs an official declaration that the limitations which the Civil Code attaches to "superficies" do not apply to the perpetual leases held by foreigners, and further, that the same is true of "all provisions of the Code implying conditions other than the conditions inscribed on the title deed of the perpetual leases." What is the reply made by the newspaper claiming to represent the land-holders? It is this:—

> Certainly it was never understood by anyone, that regulations applicable to superficies only, could have any reference or bearing whatsoever on foreigners' perpetual leases. Since the treaties recognise and confirm the right of foreigners to possess them, whatever are the laws relating to superficies, they are altogether separate and apart from these perpetual leases, and the Minister's declaration regarding the limitation of the rights of the holders of superficies, appears to be wholly unnecessary and uncalled for, since no confusion exists.

If it was "never understood by any one that regulations applicable to superficies only could have any reference or bearing whatever on foreigners' perpetual leases," what was meant by the resolution passed at the meeting on January 19th that "the laws of Japan appear to contemplate the compulsory conversion of the perpetual leases into a new and different kind of right which is called 'superficies'"?

A correspondent of the newspaper from which we have quoted writes:—

> Sir,—Referring to the paragraph in the *Japan Mail* of this morning, with extracts of a communication from the Minister of State for Foreign Affairs to the French Minister, would it not be more dignified on the part of the Japanese Government to issue a notification to the effect that *Perpetual Leases* are recognised in accordance with Treaty rights, instead of a personal opinion of a Government Minister to a Foreign Representative, which I think will be recognised as carrying no authority on behalf of the Japanese Government.
>
> Yours, PERPETUAL LEASE.

This letter seems to illustrate the strange perplexity that prevails on the subject of leases. The writer asks whether it would not be "more dignified on the part of the Japanese Government to issue a notification to the effect that *Perpetual Leases* are recognised in accordance with Treaty rights." Surely that is a curious conception of "dignity!" Why should the Japanese Government notify the world that it intends to respect its treaty obligation? Such an intention goes without saying. If a merchant makes a contract, does he advertise in the newspapers, "Know all men, that I intend to implement my contract?" Were the faithful observance of a promise a great novelty, such an announcement would be in order, but in that case "dignity" would scarcely come into the question. The Japanese Government assumes that its faithful observance of its treaty engagements is taken as a matter of course. It finds that the method of registration provided by it is regarded by foreigners as tending to a possible violation of those engagements. It then explains, through its Minister of Foreign Affairs and at the request of the French Representative, that no grounds whatever exist for such an apprehension, and the explanation, though officially made, is at once declared by a foreign lease-holder to be merely "a personal opinion of a Government Minister to a Foreign Representative," which carries "no authority on behalf of the Japanese Government." Our readers will agree with us that this discussion has assumed a farcical character.

Enclosure No. 4 (a) with
Mr. Bucks No. 417.

THE LAND QUESTION.

Mail Aug 6, 1870

Two anonymous correspondents address a local contemporary on the subject of perpetual leases. The first, who signs himself "One of the Eleven," takes exception to our remark that "the discussion had assumed a somewhat farcical character," and says that if the Editor of the *Mail* had a few hundred thousand dollars invested in Yokohama property, he would not find the position so exceedingly comical. If "One of the Eleven" read our comments, he must have seen that we applied the epithet "somewhat farcical," not to "the situation," as he alleges, but, first, to the arguments advanced by a local contemporary which, in the face of the fact that the whole complaint of the land-holders is based on the taint of superficies supposed to have been given to the leases, nevertheless denied that superficies had anything to do with the trouble; and secondly, to the suggestion of a correspondent that the Japanese Government ought to issue a notification announcing its intention of observing its treaty engagements. To say that the line taken by such controversialists is "somewhat farcical" and to say that "the situation is exceedingly comical" are two wholly different assertions. We might allege, with truth, that Christianity has often had farcical expounders, but no honest man could pretend, on the strength of such a statement, to charge us with saying that Christianity is exceedingly comical. With writers of the type of "One of the Eleven" it certainly is not worth while to argue.

The second correspondent, "Romulus," says:—

> So long as the grounds are held by the Government and are recognized as "*Kwan yu chi*," the tenure may be *comparatively* safe because it is unlikely that any question will be raised in the Courts, but suppose that the Government *sells* the land to private parties and questions *are* raised—what then?

That appears to us to illustrate what we have often said, namely, that the whole difficulty arises from failure to appreciate the Government's obligation not to take any step calculated to impair the title guaranteed to foreigners by the treaties. As a matter of fact, the Courts have no competence to meddle with the lands. The 45th Article of the Law of Operation of the Civil Code removes these titles entirely beyond the purview of the legal tribunals.

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politics.

THE *Mail* of yesterday publishes a communication received by His Excellency the French Minister from the Minister of State for Foreign Affairs, which would seem to settle beyond peradventure the status of the land in the Settlements held by foreigners under perpetual lease titles. The communication reads as follows:—

> The provisions of the Japanese Civil Code that might conflict with those of the Treaties evidently do not apply to the right of perpetual lease.
>
> The provisions of Article 268 of the Civil Code, limiting the rights of holders of superficies, and, as a general rule, all provisions implying conditions other than the conditions inscribed on the title deeds of the perpetual leases, do not apply, as a matter of course, to those leases.

Hardly anything, it seems to us, could be more explicit or more satisfactory than this authoritative declaration. It confirms the feeling we expressed on the subject in a recent issue, when we suggested it to be "simply inconceivable that a Government which has any regard for its own honor and dignity should be engaged in any underhanded attempt to evade its treaty obligations, or to so frame the language of its ordinances as to furnish an opportunity for it to take advantage of some possible future evasion, in the transfer of titles."

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Encl. No. 4(E) with
Mr. Bucks No. 417

The Japan Daily Herald.

MONDAY, FEBRUARY 5TH. 1900.

BIRTH.

On the 4th February, 1900, the wife of JOHN H. JEWETT, of a daughter.

Lands Only? or Lands and Buildings?

It may perhaps be a little wearisome to certain of our readers to have the matter of the Foreign Settlement real estate question brought to their notice so frequently in these columns, but from certain information which has reached us we find that both the Foreign Representatives and the Imperial Japanese Government still fail to fully grasp the difficulties of the situation, and this must be our apology for once again referring to the subject.

From the letter addressed to the British Minister by H.E. Viscount AOKI on the 15th January, it would appear that the Minister for Foreign Affairs considered that provided foreigners were assured of the confirmation of their perpetual leases of land in the former Settlements, all discussion would be at an end. It seems to us that under that belief His Excellency laboured exceedingly hard to convince Sir ERNEST SATOW that Imperial Ordinance 458, in conjunction with Article 45 of the "Law concerning the operation of the Civil Code," entirely covered the ground and was calculated to remove all apprehension from the minds of the foreign landowners.

We have already explained at length why the owners of former Settlement lots object to the arguments put forward by the Viscount, but would again affirm that nothing short of a full recognition and confirmation of their accrued rights under a distinctive name, will satisfy the foreign community, and that interesting as the opinions of various Professors of Law may be from a purely academical point of view, such opinions will have but little weight or influence in forming the minds of shrewd, practical men of business. The word *superficies* should have been given no place in an Imperial Ordinance dealing with perpetual leases of land in the former foreign Settlements, as this word is at least suggestive of the circumscribed rights mentioned in Art. 265 of the Civil Code, while the rights held under the perpetual leases amounted to virtual ownership embracing the rights mentioned in Articles 206 and 207 of the Civil Code. Granting that foreigners were perfectly content with the explanations offered by the Authorities—and this is by no means the case—as to the absolute safety of land tenure, if the title-deeds were registered as proposed, there would still be the ever present danger of the Japanese Court's holding that although the perpetual leases were valid they only covered *superficiary* rights. A judge might very well argue—"In view of Art. 45 of the Law concerning the operation of the Civil Code and the provisions of the Treaties, there can be no doubt but that Art. 268 of the Civil Code does not apply to these leases. So long as the holder pays the ground rent reserved, his rights are inviolate, but there is nothing to show me that his rights are other than those of a superficiary. His rights only cover the surface of the land and do not extend below it." Now under the old leases the conditions of which were arranged between the Japanese Governmet and the Consuls, a peculiar and special form of *ownership* was created, and although the land was nominally "vested in the Government," the whole of ALL POSSIBLE RIGHTS were conceded to the foreign holder. The foreign lease-holder is to all intents and purposes an "*owner*," and, within the limits prescribed by law, has the right freely to use, profit by, and deal with the land he leases; and the right of his ownership extends to what is *above and below* the ground in the absence of any provision to the contrary. It may be advanced that all this is mere hair-splitting and that our argument is over-subtle, but it is just these trivial distinctions that are most significant when the time comes for questions of rights to be decided judicially, and for their future security, prudent business men cannot afford to despise apparent trifles, nor overlook possible complications, when grave interests are at stake. To describe the perpetual leases now held by foreigners as a "*kind* of superficies" is regarded as an attempt to curtail the rights of the holders, and we as a British journal cannot understand why, instead of beating round the bush, the Government can not simply use the actual words of the Treaties in confirming the leases, except, "how not to do it" is now the great study and object of Japanese public departments and professional politicians!

There is no necessity for circumlocution and surplusage. The treaties say that "existing leases in perpetuity under which property is now held in the said settlements, shall be confirmed, etc., etc.," and as we can find nothing about superficies, described again in parenthesis as "perpetual leases," we entirely fail to see why the Government should go out of its way to draw up periphrastical ordinances on the subject. Although this journal is often misrepresented by the semi-official *Mail* as a stirrer up of bad blood in this community, such is not the case: we are as a matter of fact most desirous of seeing everything working smoothly and satisfactorily under the new *régime*, but we hold it better and more friendly to the country in which we reside to express our opinions firmly, frankly and courageously at this juncture, than to lead the Japanese Government to believe that its present action is giving satisfaction to foreigners generally.

No. 4(2)

We therefore strongly advise the Authorities not to dally with the question any longer, but to put aside all enphemisms, cease making tedious explanations and to issue a plainly worded ordinance under Article 9 of the Constitution, which will obviate all future doubts and misunderstandings.

So far the land question, but what about other real property? We feel somewhat diffident in offering any criticism, but we should have preferred to have seen the resolutions passed at the late Land-renters' Meeting a little more emphatic and explicit on this point. We have carefully studied the older Treaties and Conventions with a view to gathering data on the subject, and the result of our labours has been to convince us of the fact that whatever rights, privileges and immunities were secured to foreigners by the perpetual leases of land, extended also to the buildings on the respective lots. This conclusion has not been arrived at by means of a cursory examination of the question. We have gone carefully and conscientiously through the volume of Treaties and Conventions published by the Japanese Foreign Office in 1884, and piece by piece have discovered link after link of a complete chain of evidence which enables us to gather what was the manifest intention of the parties running through the whole series of documents; and as to the law of the place governing all these transactions, we are of the opinion that the various instruments must be interpreted according to the laws of the foreign countries concerned, inasmuch that when the older Treaties and Conventions were concluded, the Japanese *lex loci contractus* had no binding force owing to the institution of extraterritoriality. At the time when these arrangements were made, Japan had not emancipated herself from the feudal system which had been in force during centuries of rigid seclusion, and it is therefore impossible to believe that the foreign governments concerned would have permitted any interpretation of the various agreements in the light of semi-civilized feudal law and of customs entirely alien to the ideas of modern civilized communities. We think it is quite clear that what we have stated shows that the older documents were intended to be and must be interpreted according to foreign law, that any laws or customs existing in Japan were not considered by either party to the Treaties, and that the actual intention of the parties, if not directly expressive, must be "tacitly inferred from the nature, objects, and occasion of the contract."

Now it was provided in the Treaties that foreigners might permanently reside in certain ports, that they had the right to lease land (the conditions subsequently arranged by the Consuls conferred virtual ownership on the holders of leases) and purchase the buildings thereon, and to erect dwellings and warehouses, and foreigners accordingly availed themselves of these rights, and did gradually acquire real estate in the former Settlements. Originally, affairs seem to have been conducted in a happy-go-lucky style as neither the Japanese officials nor the Consular body appear to have been actuated by any definite guiding principle as regarded the details of the method adopted for giving practical effect to the provisions of the various Treaties and Conventions, and, so far as we can discover, it was not until 1860 that any land regulations were formulated. This document was drawn up at Nagasaki on the 29th Sept., 1860, and was followed by four others viz:—"Memorandum for the Foreign Settlement at Yokohama," 19th Dec., 1864; "Arrangements for the Establishment of Foreign Settlements at the Port of Hiogo and at Osaka," 16th May, 1867; "Further Arrangement Relative to the Foreign Settlement at Yedo," 3rd May, 1870 (also "Conditions of the Public Sale of the Leases of Land in the Foreign Settlement at Yedo"—same date) and "Arrangement for the Control and Management of the Municipal Affairs of the Foreign Settlement of Yokohama," 17th Dec., 1871. It is out of the question to do more than to deduce general principles from this mass of evidence, but careful analysis of the documents reveals the following facts relative to the tenure of real estate in the Settlements:—

1. Leases of land were granted to foreigners and to their executors, administrators and assigns who paid or caused to be paid to the Japanese Government, ground rent at a certain specified rate.

2. That the leases—so called—were in reality title deeds granting and conveying to the holder, his heirs and assigns forever, *full* rights of practical *ownership* over the land of the nature contemplated by Arts. 206 and 207 of the Civil Code.

3. That the "ground rent"—so called—was in reality a sum paid in commutation of all possible Municipal Taxes. This point is very clear on reference to Art. 5, paragraph 2, of the *Nagasaki Regulations*, Art. 12 of the *Memorandum for the Foreign Settlement at Yokohama*, Art. 5 of "*Further Arrangement relative to the Foreign Settlement at Yedo*," Art. 7 of "*Conditions of the Public Sale of the Leases of Land in the Foreign Settlement at Yedo*," and the various articles of "*Arrangement Relative to the Foreign Settlement at the Port of Hiogo and at Osaka.*"

4. That separate and apart from the question of "ground-rent" in the large majority of cases, certain sums of money was actually paid to the Japanese Government as consideration for the land, so the holders have always possessed a double claim over their estates—one in respect to purchase money, and one in respect to the high commutation fee paid in lieu of taxes, under the name of "ground rent." In a few cases only certain lots were granted in consideration of simple "rent," but against this the holders were required, under penalty of forfeiture, to erect, *within six months*, buildings of a stipulated value on every 100 *tsubo* of land.

No. 4(2)

5. That originally the Japanese had no intention to discriminate between the lots and structures on them or to treat them separately, because if they had, surely *some* indication of such design would be traceable in the records of four decades. On the contrary, there is much internal evidence strongly suggestive of the fact that the Japanese authorities intended the deeds issued by them to cover the whole of the real estate—both the lands and buildings thereon—else why should certain regulations have made it compulsory on holders to erect buildings? And again, if it was originally believed that the lands and buildings were separable and distinct from one another, why do the forfeiture clauses include the buildings? The whole trend of evidence is to prove that the land and buildings were deemed to be one and inseparable, and alike held under the deeds, and this being the case it is clear that foreigners have the right to claim that the commuted taxes hitherto paid and now being paid under the name of "ground" rent, cover the houses erected on their lots and that therefore no further taxes should be imposed.

* The Japanese text says *Jimen Kyobai*, 'Auction Sale of Land.'

The various new Treaties differ in their wording, and, with the exception of the French, are all vaguely worded documents so far as the Articles confirming perpetual leases are concerned, but the French distinctly says:—"The perpetual leases in virtue of which foreigners now hold real estate in the Settlements, shall be confirmed, and no imposts, taxes, charges, contributions, or conditions other than those expressly stipulated in the leases in question shall be imposed on real-estate of this nature." To be sure of our ground we have carefully consulted the Japanese text in order to ascertain what were the intentions of the Japanese negotiator, and we find the word *propriétés* is translated *fudo-san* ("immoveables" or "real estate"); "real estate of this nature" (*les propriétés de cette nature*) is translated *shikashite migi no gotoki seishiteü no fudo-san* (and immoveables—real estate—of a like nature to the above). It now becomes evident that the Japanese negotiator was fully conscious of the meaning of the French text and that no fault can be found with the translation, and this being so we naturally have to enquire what "real estate" means and find that it is "land including whatever is made part of or attached to it by nature or man, as trees, water, minerals, houses, and other permanent structures" or "That which cannot be moved, land with things as trees, buildings, etc., strictly appertaining to it either naturally or otherwise so as not to be moveable." Now the persons who originally purchased or otherwise acquired the Settlement Lots, did so on certain conditions which they understood to be:—

1. That the title-deeds granted ownership in perpetuity.

2. That the lots were allotted for the express purpose of lands for building purposes.

3. That no taxes or impositions were to be levied on the land other than the "ground rent," provided, and for more than thirty years owners have peacefully and openly exercised their rights over the property and been in undisturbed and open possession of both lands and houses. During this time the various lots have changed hands—several times over in many cases—and successive purchasers have acquired possession by paying for the rights in all good faith, ever believing that "no conditions whatsoever other than those contained in such existing leases" would be imposed. Under these circumstances, in view of its solemn Treaty obligations couched in words (as far as the French Treaty is concerned) plain and obvious, and after the lapse of a period longer than the longest term of prescription contemplated in the Civil Code, we confess that we are more than astonished to see the Japanese Government attempting to arbitrarily force foreign land-holders to pay what would virtually amount to a double tax on the buildings they own, and to compel them, under pain of non-recognition and denial of the right of mortgage, to register such buildings in the Courts at a heavy expense! This is not as it should be, and the position of affairs is grave enough to call for the active intervention of the foreign Ministers in representing to the Imperial Government that they cannot silently acquiesce in the proposed changes. We earnestly desire to impress on the Government that their unsatisfactory attitude is doing Japan serious injury abroad and frightening away foreign capital from investment in this country.

Of late we have noticed a marked change in the tone of the foreign press abroad, distinctly less favorable to Japan than formerly, and if the true inwardness of the causes underlying the disappointing result of the small foreign loan floated in London not long ago, be realized and borne in mind, it cannot require any very great sagacity or perspicacity to perceive that this country is not so well established in the opinions of the world that it can afford to play fast and loose with its credit, or to ignore or flout International sentiment. More credit may be forfeited in a moment than can be built up in an age, and in these days of a free and powerful press there is no such thing as secrecy or blinding the eyes of the public. Even in his day NAPOLEON candidly confessed that four hostile newspapers were more to be feared than a thousand bayonets, and to a great extent his words were true, for the least breath of suspicion affecting the credit of a nation is circulated with well-nigh lightning rapidity throughout the entire earth, and may do incalculable injury to its political and commercial relations and prestige.

No. 4 (2)

Rightly or wrongly, there exists a vague distrust of the future intentions and movements of a nation whose representatives appear only too ready—to put it mildly—to interpret their treaty engagements in a singularly illiberal spirit, and foreigners resident in this country do not feel justified in recommending capitalists to invest money in the Japanese Empire under present conditions, and especially at a time when business in real estate even in the former Settlements is paralysed and at a standstill owing to the extraordinary action of the Authorities. And, let us add, on behalf of the English and American community especially, foreigners will not be content with half-way measures, or satisfied by the declaration of some suave delegate in the Diet, for the reason that assurances given in the Diet have no legal weight at all. Parliamentary explanations are very well in their way, but, after all, *litera scripta manent, verbum ut inane perit!* We Anglo-Saxons are accustomed in our native lands to plain utterances and plain laws and cannot understand the *raison d'etre* of euphemism: if a thing is to be done, we like to see it done thoroughly and openly, and when necessary to have Government guarantees of good faith provided in the shape of intelligible laws couched in unequivocal language and unequivocally administered and this being the case, we can assure the Government that so far as the import of English and American capital is concerned, money will not be attracted to this Empire until the authorities can see their way towards adopting a more enlightened, liberal, creditable and withal, sincere policy in their dealing with aliens. Foreigners are not asking for anything new, but merely for an unconditional recognition and comfirmation of all rights secured to them by the old treaties and guaranteed by the new, and we sincerely hope that the Government and the Foreign Representatives will be wise enough to perceive that the time has arrived when there must be no more dodging of the questions raised. The position of affairs is serious and untenable, and further shifts or evasions will only accentuate it and assuredly lead to strained relations and unpleasantness; therefore we desire to impress upon the Government, the paramount necessity of settling the matter in an equitable and dignified manner, with as little loss of time as possible, if it wishes to escape the reproach of practising that specious injustice which arises from the *delay of justice.*

Enclosure No. 4(f)

With Mr. Buck's No. 417

Daily Herald
July 24th 1905

ALLUDING to a paragraph contained in a recent issue of this journal, the *Mail* makes no attempt to deny the facts mentioned by us, but goes on to say that such an assertion as that "in the eyes of a law court, the latter is bound to consider the certified entry in the registry only, and cannot take any notice of a lease," is "apt to create much disquiet in the minds of land holders," and it then proceeds to "ask them to listen to a few plain facts," which it proceeds to give as follows, that under the 45th Article of the law of the Civil Code, settlement lands are excluded from the scope of the Code. Next, that no law court has competence to interfere arbitrarily between landlord and tenant, and finally, that the Government would have to begin by rescinding its own ordinance. This latter, by the way, in face of the fact that the Government is virtually attempting to rescind a right guaranteed by treaty,—a more difficult thing to accomplish. The rescinding of one of the Government's own ordinances, with the assent of the Diet, would not probably prove of much difficulty. It must be admitted that settlement lands are excluded from the Civil Code by express enactment, but unfortunately there is no provision of the requisite machinery required for their administration; the only provision made is for the registration of "superficies, (perpetual lease)," a column being left for a record of these hybrid creations, which are contradictory of each other,—superficies having a time limit *ab initio*, or afterwards to be determined, and a perpetual lease, as a matter of course, has none. As to the right of law courts to interfere when a question of title is raised, which a dissatisfied purchaser has the liberty to do, there can be no question of that, and this when the record of a perpetual lease is looked into, it will be found by the production of a copy of the register, that his holding is recorded only as a superficies title.

To us it appears as simply atonishing that the Government's action with respect to land held by persons entitled to a clear title to a perpetual lease, should be persisted in, thereby casting a cloud upon what ought to be regarded as a proper title. The very fact of the Government's provoking any question on the subject, and refusing or neglecting to resort to the simple and obvious remedy of what is amiss, by either issuing an Imperial ordinance, or passing a short bill through the Diet curing the deficiency complained of, is enough to create suspicion and cause anxiety to landholders.

THE ASSURANCE TO M. HARMAND.

Kobe Chronicle, July 24

WE note that Viscount AOKI, the Minister for Foreign Affairs, has addressed to M. HARMAND, the French representative, a note regarding perpetual leases of almost similar tenor to that addressed to the British Minister, and reproduced in our columns a few weeks ago. In the latest note Viscount AOKI says:—"The provisions of the Japanese Civil Code that might conflict with those of the Treaties evidently do not apply to the right of perpetual lease. The provisions of Article 268 of the Civil Code, limiting the rights of holders of superficies, and, as a general rule, all provisions implying conditions other than the conditions inscribed on the title-deeds of the perpetual leases, do not apply, as a matter of course, to those leases." The objection taken by some, it will be remembered, was that registration of the leases by the Imperial Ordinance issued at the end of last December under the title of "superficies (perpetual lease)" might bring such deeds within the limits of Article 268 of the Civil Code, which reads:—"In cases where the period of duration is not fixed by the act creating the right of superficies, the superficiary may, when there is no special local custom to the contrary, relinquish his right at any time. But when ground-rent has to be paid, one year's notice must be given, or one clear year's rent be paid." As the right of relinquishment, however, thus lies with the lessee, there is not much to object to in this clause. It was the clause which followed that raised some anxiety in the minds of lease-holders. This runs:—"When a superficiary does not avail himself of the provisions of the preceding clause and relinquish his right, a court of law shall, on the application of the parties, determine the period of duration within the limits of twenty and fifty years, taking into consideration the nature and condition of the buildings, or of the bamboos and trees, and also the circumstances existing at the time the right of superficies was created." With the above must be read Article 44 of the Law concerning the Operation of the Civil Code, which says:—"If the duration of a superficies created before the taking effect of the Civil Code has not been determined, and the parties concerned make the application provided for in Article 268 (2) of the Civil Code, the Court must fix its duration within the limit of not less than twenty years from the time of its creation and not more than fifty years from the day when the Civil Code took effect." It will thus be seen that in both these cases it is the parties concerned who must put the law in motion with regard to the limitation of superficies—that is to say, either the lessor or the lessee. Now, with the exception of a few lots on the hill in Kobe—not exceeding, we believe, seven in number—the lessor in the case of these perpetual leases is the Japanese Government itself. We ask whether it is credible that the Japanese Government, even supposing that these leases were registered as superficies, would, in face of the stipulations in the Treaties regarding leases in perpetuity, be likely to set the law in motion with the object of limiting the term of their duration? If the Japanese Government were to attempt this, then the new Treaties might as well be torn up altogether, for there could be no surety that any part of them would be operative. It seems to us that it is incredible the Government is likely to attempt anything of the sort, and we understand that such is the view taken in Kobe by those most concerned. If confirmation be needed, it is to be found not only in the Imperial Ordinance which declares the form of registration to be a special kind of superficies by the insertion of "perpetual lease" in brackets after the word, but in the specific declaration of the Japanese Government, made both to the British and the French Minister, that the provisions of Article 268 of the Civil Code relating to superficies shall not be applied to these perpetual leases. The principal protection, however, is to be found in the fact that the Japanese Government is the only party that can put the law in motion to restrict the term of these leases, and as such a course could only be taken after a denunciation of the Treaties which contain provisions safeguarding them, it is not within the bounds of reasonable discussion. We think it is worth while pressing this point, because it seems to us, after close consideration, that the energy which has been spent in fighting this matter is quite wasted, and only tends to evoke an uneasy feeling that must tend to depreciate the value of the property involved. The assurances given by the Japanese Government seem to us amply sufficient to allay any anxiety in this matter which the holders of perpetual leases may at one time have felt.

LAND REGISTRATION QUESTION.

WE do not think there is the slightest probability that the Japanese Government will ask the Diet to legislate in the senseindicated by the Meeting of Land-Renters on the 19th instant. Moreover, inquiries subsequently made convince us that if the Government's position were fully understood, the desire for special legislation would cease to be entertained. Perhaps the easiest way to explain the facts will be to examine the Resolutions adopted at the Meeting in order to ascertain how far they consist with the step that the Government has already taken.

The first Resolution says :—

1. That although the revised treaties provide that the existing Government leases in perpetuity of foreign settlement property shall be confirmed, steps have not yet been taken by the Government to confirm them, and the laws of Japan appear to contemplate their compulsory conversion into a new and different kind of right, which is called "superficies."

Now, according to the Government's view, which we believe that our inquiries have enabled us to understand, it is emphatically denied that "steps have not yet been taken to confirm the perpetual leases." Without referring to the course originally pursued by the Government, if we turn to the Imperial Ordinance of December 27th, we find that the title-deeds of the lands held by foreigners in the Settlements are textually confirmed. All transfers are to be entered on the title-deed by the *Chihōchō*, and the latter has to submit a copy of the title-deed to the registrar when requiring him to register a transfer. Our readers are probably aware that in the ordinary routine of Japanese legal procedure, title-deeds are quite unnecessary. In fact, they may be said to have no existence. Their place is taken by a copy of the register. The owner of land need never encumber himself with a title-deed of any kind, the validity of his right being established by the register alone. But the Imperial Ordinance of December 27th recognises title-deeds as essential in the case of the Settlement lands, and thus effectually differentiates their tenure from the ordinary kind of tenure provided by law. In a word, the Ordinance confirms the leases.

In the next place, it is emphatically denied that "the laws of Japan contemplate the compulsory conversion of the leases into a new and different kind of right called 'superficies'". There is not to be any conversion of the leases into any other form of right whatsoever. They will stand exactly as they are now for all time, their form unchanged and their phraseology unaltered.

Let us now take the second Resolution :—

2. That under existing laws the right of perpetual lease is not recognised, and since the coming into operation of the revised treaties the holders of such leases have been unable to sell or mortgage their land except on the terms of allowing the leasehold interest to be registered as a "superficies," which they have been and are unwilling to do.

As to this, it is quite true that the right of perpetual lease is not legally recognised for Japanese subjects, but it is a mistake to allege that the foreign holders of the Settlement leases can not sell their land "except on the terms of allowing the leasehold interest to be registered as a 'superficies.'" Registration—that is to say, the entry of a record in the books of the local office—is not necessary to the validity of a transfer in the case of Settlement lands. The first Article of the Ordinance of December 27th says :—

When a superficies (perpetual lease) created in a foreign settlement is transferred, such transfer can not be set up against a third person unless it is entered in the title deed by the *Chihocho* of the place where such land is situated.

Entry in the title-deed, not registration at the local office, establishes the validity of the transfer. Here again a foreigner's right is distinctly differentiated from that of a Japanese, for whereas the latter acquires validity by registration and by registration only, the former acquires validity by an entry in the deed, and need not be registered, though provision is duly made for its registration.

But, it may be argued, the *Chihōchō*, after making the entry in the title-deed, is required by the Ordinance to register it, and the registrar has to record it as a "superficies," so that, in the upshot, the foreigner's tenure is converted into a "superficies." To this there are three replies. First, the foreigner's right does not undergo any process of conversion whatever. It is not affected by registration. The title-deed determines it, and the title-deed remains unaltered for all time. Secondly, the registration being undertaken by the Japanese Authorities themselves for the convenience of their records, its form does not really concern the foreigner at all. If he were asked to place himself on the same footing as a Japanese landholder, namely, to tear up his title-deed and derive his right solely from the entry in the register, the phraseology of the latter would be of vital importance to him. But he is not asked to do anything of the kind. He preserves his title-deed; he derives his right from it, and the nature of his tenure is quite independent of the registration. Thirdly, even assuming that the conversion spoken of in the Resolution did take place, it would not be conversion into "superficies." It would be conversion into "superficies" qualified by "perpetual lease" in brackets. The difference is fundamental. A law court, on application by a land-owner, has competence to set a fifty-years' limit to a "superficies" of which the period is not fixed. But a law court has no competence to deal in that manner with a "superficies" qualified by the addition "perpetual lease." Such a title is removed beyond the reach of the interference to which an ordinary "superficies" is subject. It is, in fact, a specially protected title, and that the Government has power to afford this special protection is established by the 45th Article of the Law of Application of the Civil Code, which says :—

With regard to superficiary land rights acquired by foreigners or foreign juridical persons, the provisions of the Civil Code shall be applicable only in cases not specially provided for by treaty or order.

This most important Article deserves attention. Its effect is to remove from the purview of the Civil Code all rights of land tenure acquired by foreigners under the special provisions of treaties or orders. The treaties create a special right of land tenure with in the limits of the former Settlements, and that right have been confirmed by Imperial Ordinance. It is thus absolutely certain that a Court of Law has no competence to apply the provisions of the Civil Code in the sense of abridging or impairing the title of the foreign land-holder. But although even this point is thus capable of satisfactory explanation, the fact must always be borne in mind that the foreign land-holder's right is derived, and will continue to be derived, not from an entry in the register, but from his title deed.

It is unnecessary to refer in detail to the third Resolution, because it is answered by what we have already stated. There has not been any "non-recognition of what foreigners conceive to be a right secured by their title deeds and by treaty," nor is there any valid reason why sales of property should have been stopped.

The fourth Resolution says :—

4. That in order to remedy the evils of the situation, and to restore confidence, it is most desirable that the Imperial Japanese Government shall at once confirm the aforesaid leases in perpetuity and make all necessary provisions for their recognition by law, and for the registration of them under a separate designation.

As a matter of fact, the leases *have* been confirmed in perpetuity, and provision *has* been made for their registration under a separate designation. But the meaning of the Resolution is that the Legislature should be duly invited to pass an enactment providing for the registration of the titles as "perpetual leases." It is certain that the Legislature could never be persuaded to do anything of the kind. Were such a Bill submitted to it, the first question asked would be :—"Is this step necessary? Is it essential that a new kind of nomenclature should be created by law in order to give effect to the treaties?" Obviously the Government Delegates could not answer in the affirmative. They would have to say :—"No. In the due exercise of the powers already vested in us, we have provided a method which, in our opinion, satisfies all the requirements of the case." The next question would be :—"Then why this proposal for special legislation?" and the reply must follow :—"Because the foreign land-holders are not satisfied with the method we devised and established by Imperial Ordinance." Would

any Parliament in the world pass a Bill presented to it on such grounds, or could any Cabinet be reasonably asked to present such a Bill? The Japanese Government has adopted a certain course for giving effect to its treaty engagements, and it is fully persuaded that by pursuing that course it can guarantee the foreign land-holder against the smallest infraction of his rights. Thus the matter finally resolves itself into this:—What foreign land-holders object to is, not the Japanese Government's failure to carry out its treaty engagements, but the manner it has chosen to carry them out. Have they a just right to raise such an objection so long as there is no disturbance of their titles?

There is another point to be considered. If the Diet were invited to legislate in the sense of creating a new legal designation for registering foreign titles in land, would it consent to waive the payment of registration fees? Most assuredly it would not. The Government has contrived to secure exemption for the foreigner by transferring the duty of registration from his shoulders to those of the *Chihocho*, but he must be a very sanguine man indeed who imagines that a majority in the House of Representatives could be persuaded to endorse scuh differentiation in favour of the foreigner while, at the same time, throwing open the registers to him.

Finally it must always be remembered that the perpetuity of the title "superfices" is guaranteed so long as the owner of the land does not attempt to disturb it. The Government is pledged by treaty to confirm the perpetuity of the foreigners' leases. Hence, any doubt cast upon "superficies" in such a context is a doubt cast upon the Government's respect for its treaty engagements. But, in point of fact, the title is not converted into "superficies" nor even into "superficies" with "perpetual lease" in brackets. The title remains as it has always been, and is not in any way effected by registration.

Our readers will perceive that we have not spoken of mortgages. The Imperial Ordinance of December 27th makes no mention of mortgages, and we are not aware what procedure is contemplated with regard to them. That seems to be a serious omission.

We have stated the case as clearly as possible in conformity with the result of our investigations, for we feel that, the more thoroughly it is understood, the more quickly will the present dead-lock be resolved. There is still one phase of the question which should be noticed, though we do not imagine that any one attaches practical importance to it. It is the suspicion that although the 45th Article of the Law of Operation of the Civil Code enables the Government now to remove the foreign titles beyond the reach of the Code, the protection thus given will cease when the treaty terminates 12 years hence. In other words, the Government, though pledged by treaty to recognise the perpetuity of the leases, will be guilty of the chicanery of interpreting "perpetuity" to mean "12 years," and will withdraw the protection of the Ordinance. Well, even granting the possibility of such a wild chimera, would the danger be averted by having the titles registered as "perpetual leases?" If the Government can not be trusted to keep its solemn engagements, can the Diet be trusted? If it be conceivable that the Government should resort to the twelve-year subterfuge, is it not at least equally conceivable that the Diet, at the end of 12 years, might rescind the special law which the land-renters now desire to have passed, and might decline to continue the system of differentiation? Truly this line of objection does not deserve analysis. If the Government's *bona fides* can not be credited, there is little to be hoped from the liberality of the Diet. But we may take it for granted that neither Government nor Diet will ever be guilty of the gross dishonesty of pretending that a promise to confirm a perpetual lease holds good for 12 years only.

A NEW VIEW OF THE BUDDHIST AGITATION.

MR. "Miyake Setsurei" contributes one of his invariably interesting articles to the *Nippon*, taking for theme the agitation now fomented by certain sections of Buddhists against the Government's Religions Bill. The upset of his comments is that the basis of the trouble is political, and for proof of that view he goes back as far as the sixteenth century. In the days of OTA NOBUNAGA and HIDEYOSHI, the *Taiko*, the great Shin sect had only one principal place of worship, the Nishi Hongwan-ji. Upon that temple the *Taiko* bestowed his favour, and thither one of the most beautiful pavilions of the Palace of Pleasure was conveyed after the treason of HIDETSUGU and the consequent demolition of the Palace. But IYEYASU, the Tokugawa chief, removed his patronage from KOSHO, the hierarch of Nishi Hongwan-ji, and gave it to a rival, KOFU, the result being the founding, in a later era, of the splendid temple, Higashi Hongwan-ji. While the Tokugawa held administrative sway, every Japanese subject had to register himself as a Buddhist. Whatever his real convictions might be, the only method of escaping the stigma of Christianity was to have his name borne upon the books of some temple. Buddhism thus acquired factitious importance and flourished correspondingly. The Shin sect obtained immense influence. In the western provinces the sway of the Higashi Hongwan-ji became paramount, but in Nagato, Suwo and parts of Kwanto, Oshiu and Kiushiu, the rival and older temple, Nishi Hon-

Encl No. 4 (a)
with Mr. Bucks's No. 417.
(Duplicate)

LAND TITLES IN YOKOHAMA.

Monday, Feb. 12.

The provisions of Japanese law, as applicable to the titles under which landed property is held by foreigners in the former settlements, seem to be still misapprehended. A local contemporary warns its readers that the leases they possess are of no value in the eyes of a law court since the latter is bound to consider the certified entry in the register only, and can not take any notice of a lease. Such an assertion is apt to create much disquiet in the minds of land-holders, and we ask them, therefore, to listen to a few plain facts.

The first of these facts is that, according to the explicit language of the 45th Article of the Law of Application of the Civil Code, the titles under which foreigners hold their Settlements lands are excluded from the scope of the Code. A court of law, asked to deal with such titles, would be clearly exceeding its powers if it attempted to apply to them the provisions of the Civil Code as they stand. An Imperial Ordinance, issued in compliance with the Government's treaty obligations, has distinctly guaranteed the titles against such treatment, and a law court is bound by the terms of the law to respect that Ordinance.

The second of these facts is that a flagrant breach of its treaty obligations on the Government's part, must precede any reference of such questions to a law court. No law court has competence to interfere arbitrarily between landlord and tenant. It has nothing whatever to do with their relations so long as its interference is not solicited by one side or the other. Now the Government has entered into a solemn international contract that it will respect the perpetuity of foreigners' titles. Does any one seriously imagine that there is the faintest danger of the Government's appealing to a Court of law to invalidate that contract? The notion seems to us quite farcical. Japan has always adhered to her treaty engagements with scrupulous good faith. Is it likely that she will now deliberately perpetrate a most iniquitous and conspicuous violation of them? So long as she does not attempt such an act of dishonesty, the law courts can never be invited to deal with the land titles, since their power to interfere can not be exercised until one of the parties makes formal application for its exercise.

The third of these facts is that if the Japanese Government is so unworthy of confidence, the idea that it could be held to its engagements by a mere distinction of phraseology is surely a little extravagant. In order to approach a law court in the sense apprehended, the Government, *qua* Government, would have to begin by rescinding its own Ordinance of last December; and then, *qua* landlord, it would have to make application to the law courts in diametrical opposition to its treaty pledges. Assuming for a moment that there is danger of such procedure, would the danger be averted by special legislation providing for the registration of foreigners' titles as "perpetual leases?" Could not a Government, so careless of its obligations, submit a Bill, at any time in the future, asking the Diet to put an end to the discrimination in favour of foreign leases? It seems to us that one danger is just as real as the other. So soon as we begin to grapple with chimæras, there is no limit to the operation.

The plain truth is that the Government has availed itself of the powers vested in it by law to give effect to its treaty engagements, and that, so long as it observes those engagements, the foreign land-holder is safe. If it ceases to respect its treaty pledges, then indeed the deluge may sweep away more things than land leases.

Wednesday, Feb. 14.

Referring to the vexed question of the registration of foreign land-holders' titles the *Japan Herald* declares it to be a fact that "the Japanese Government is virtually attempting to rescind a right guaranteed by treaty," and calls that "a more difficult thing to accomplish" than the rescinding of an Ordinance. Indeed, our contemporary goes so far as to allege that "the rescinding of one of the Government's own Ordinances, with the assent of the Diet, would not probably prove of much difficulty." We do not suppose that there is any intention on our contemporary's part of preferring an accusation of deliberate bad faith against the Japanese Government. The land-renters, at their recent meeting, were most careful to show that they did not entertain such a suspicion. Our contemporary doubtless means that the use of the term "superficies (perpetual lease)" amounts, in effect, to an abrogation of the right of "perpetual lease." In short, the addition of the word "superficies" is the whole subject of complaint. But the Japanese Government's reply, as we understand it, is that they have fully recognised, and do fully recognise, the right of "perpetual lease," and that in registering it as a "perpetual lease of the surface of the ground," they are simply adopting the most convenient nomenclature furnished by existing laws. To alter that arrangement would be to admit that it exposes the land-holder to dangers against which the Government is pledged by treaty to protect him, and we do not think it probable that such an admission will be made. If any of the persons that condemn the arrangement would take the trouble to state a case showing how the danger they apprehend can be incurred, it would be easier to understand their position. Will they say in plain terms what they fear and how their fear could be realized. A descent from the clouds of vague suspicion to the region of hard facts would be welcome.

Now, as to our contemporary's assertion that "the rescinding of one of the Government's own Ordinances, with the assent of the Diet, would not probably prove of much difficulty," we would inquire, what then is the security desired? The resolutions passed at the land-owners' meeting asked for the registration of their title in the unadulterated form of "perpetual lease." How could that be effected? Obviously by an Ordinance of the Government with the Diet's endorsement, or by a law of the Diet with the Government's endorsement. But we are now told that the rescinding of such an instrument "would not probably prove of much difficulty." What is to be done then? If neither the Government nor the Diet can be trusted to observe the country's treaty obligations, where can security be found? And what is the use of setting so much store by a particular form of phraseology if the ordinance or law embodying it may be at any mome
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No. 4 (B)
with Mr. Bucke's
No. 417.

LAND TITLES IN YOKOHAMA.

Monday, Feb. 12.

The provisions of Japanese law, as applicable to the titles under which landed property is held by foreigners in the former settlements, seem to be still misapprehended. A local contemporary warns its readers that the leases they possess are of no value in the eyes of a law court since the latter is bound to consider the certified entry in the register only, and can not take any notice of a lease. Such an assertion is apt to create much disquiet in the minds of land-holders, and we ask them, therefore, to listen to a few plain facts.

The first of these facts is that, according to the explicit language of the 45th Article of the Law of Application of the Civil Code, the titles under which foreigners hold their Settlements lands are excluded from the scope of the Code. A court of law, asked to deal with such titles, would be clearly exceeding its powers if it attempted to apply to them the provisions of the Civil Code as they stand. An Imperial Ordinance, issued in compliance with the Government's treaty obligations, has distinctly guaranteed the titles against such treatment, and a law court is bound by the terms of the law to respect that Ordinance.

The second of these facts is that a flagrant breach of its treaty obligations on the Government's part, must precede any reference of such questions to a law court. No law court has competence to interfere arbitrarily between landlord and tenant. It has nothing whatever to do with their relations so long as its interference is not solicited by one side or the other. Now the Government has entered into a solemn international contract that it will respect the perpetuity of foreigners' titles. Does any one seriously imagine that there is the faintest danger of the Government's appealing to a Court of law to invalidate that contract? The notion seems to us quite farcical. Japan has always adhered to her treaty engagements with scrupulous good faith. Is it likely that she will now deliberately perpetrate a most iniquitous and conspicuous violation of them? So long as she does not attempt such an act of dishonesty, the law courts can never be invited to deal with the land titles, since their power to interfere can not be exercised until one of the parties makes formal application for its exercise.

The third of these facts is that if the Japanese Government is so unworthy of confidence, the idea that it could be held to its engagements by a mere distinction of phraseology is surely a little extravagant. In order to approach a law court in the sense apprehended, the Government, *qua* Government, would have to begin by rescinding its own Ordinance of last December; and then, *qua* landlord, it would have to make application to the law courts in diametrical opposition to its treaty pledges. Assuming for a moment that there is danger of such procedure, would the danger be averted by special legislation providing for the registration of foreigners' titles as "perpetual leases?" Could not a Government, so careless of its obligations, submit a Bill, at any time in the future, asking the Diet to put an end to the discrimination in favour of foreign leases? It seems to us that one danger is just as real as the other. So [illegible] its treaty pledges, then indeed the deluge may sweep away more things than land leases.

Wednesday, Feb. 14.

Referring to the vexed question of the registration of foreign land-holders' titles the *Japan Herald* declares it to be a fact that "the Japanese Government is virtually attempting to rescind a right guaranteed by treaty," and calls that "a more difficult thing to accomplish" than the rescinding of an Ordinance. Indeed, our contemporary goes so far as to allege that "the rescinding of one of the Government's own Ordinances, with the assent of the Diet, would not probably prove of much difficulty." We do not suppose that there is any intention on our contemporary's part of preferring an accusation of deliberate bad faith against the Japanese Government. The land-renters, at their recent meeting, were most careful to show that they did not entertain such a suspicion. Our contemporary doubtless means that the use of the term "superficies (perpetual lease)" amounts, in effect, to an abrogation of the right of "perpetual lease." In short, the addition of the word "superficies" is the whole subject of complaint. But the Japanese Government's reply, as we understand it, is that they have fully recognised, and do fully recognise, the right of "perpetual lease," and that in registering it as a "perpetual lease of the surface of the ground," they are simply adopting the most convenient nomenclature furnished by existing laws. To alter that arrangement would be to admit that it exposes the land-holder to dangers against which the Government is pledged by treaty to protect him, and we do not think it probable that such an admission will be made. If any of the persons that condemn the arrangement would take the trouble to state a case showing how the danger they apprehend can be incurred, it would be easier to understand their position. Will they say in plain terms what they fear and how their fear could be realized. A descent from the clouds of vague suspicion to the region of hard facts would be welcome.

Now, as to our contemporary's assertion that "the rescinding of one of the Government's own Ordinances, with the assent of the Diet, would not probably prove of much difficulty," we would inquire, what then is the security desired? The resolutions passed at the land-owners' meeting asked for the registration of their title in the unadulterated form of "perpetual lease." How could that be effected? Obviously by an Ordinance of the Government with the Diet's endorsement, or by a law of the Diet with the Government's endorsement. But we are now told that the rescinding of such an instrument "would not probably prove of much difficulty." What is to be done then? If neither the Government nor the Diet can be trusted to observe the country's treaty obligations, where can security be found? And what is the use of setting so much store by a particular form of phraseology if the ordinance or law em-

Encl. No. 4c, with
Jan. Bucks No. 417.

The Japan Daily Mail.

YOKOHAMA. FRIDAY, MARCH 2, 1900.

THE LAND QUESTION.

It really does seem that the persons who have undertaken to journalistically represent the foreign land-holders are determined to be dissatisfied, whatever may be done to satisfy them. Hitherto, their main, indeed we may say their only, ground of complaint has been that in the registration of their titles the term "superficies" is used—not "superficies," pure and simple, but "superficies" with the words "perpetual lease" in brackets, these words being added for the purpose of distinguishing the titles as treaty rights to which the provisions of the Civil Code do not apply. Nevertheless, the foreign land-holders objected to the term "superficies" being employed in connexion with their leases. They claimed that the form of tenure known as superficies is subjected by the laws of Japan to certain limitations which do not apply to the "perpetual leases" contemplated by the treaties. That, we say, was the whole objection. It is clearly set forth in the first resolution passed by the public meeting of January 19th, which says that "the laws of Japan appear to contemplate the compulsory conversion of the perpetual leases into a new and different kind of right which is called superficies." Clear proof has been furnished that the above resolution was framed under a misapprehension, since the land titles held by foreigners under the treaties are explicitly exempted from the provisions of the Civil Code, and since those titles are not to be changed in any way, the addition of the term "superficies" being merely for convenience of registration. To make assurance doubly sure, the French Representative obtained from the Japanese Minister of State for Foreign Affairs an official declaration that the limitations which the Civil Code attaches to "superficies" do not apply to the perpetual leases held by foreigners, and further, that the same is true of "all provisions of the Code implying conditions other than the conditions inscribed on the title deed of the perpetual leases." What is the reply made by the newspaper claiming to represent the land-holders? It is this:—

> Certainly it was never understood by anyone, that regulations applicable to superficies only, could have any reference or bearing whatsoever on foreigners' perpetual leases. Since the treaties recognise and confirm the right of foreigners to possess them, whatever are the laws relating to superficies, they are altogether separate and apart from these perpetual leases, and the Minister's declaration regarding the limitation of the rights of the holders of superficies, appears to be wholly unnecessary and uncalled for, since no confusion exists.

If it was "never understood by any one that regulations applicable to superficies only could have any reference or bearing whatever on foreigners' perpetual leases," what was meant by the resolution passed at the meeting on January 19th that "the laws of Japan appear to contemplate the compulsory conversion of the perpetual leases into a new and different kind of right which is called 'superficies'"?

A correspondent of the newspaper from which we have quoted writes:—

> Sir,—Referring to the paragraph in the *Japan Mail* of this morning, with extracts of a communication from the Minister of State for Foreign Affairs to the French Minister, would it not be more dignified on the part of the Japanese Government to issue a notification to the effect that *Perpetual Leases* are recognised in accordance with Treaty rights, instead of a personal opinion of a Government Minister to a Foreign Representative, which I think will be recognised as carrying no authority on behalf of the Japanese Government.
>
> Yours, PERPETUAL LEASE.

This letter seems to illustrate the strange perplexity that prevails on the subject of leases. The writer asks whether it would not be "more dignified on the part of the Japanese Government to issue a notification to the effect that *Perpetual Leases* are recognised in accordance with Treaty rights." Surely that is a curious conception of "dignity!" Why should the Japanese Government notify the world that it intends to respect its treaty obligation? Such an intention goes without saying. If a merchant makes a contract, does he advertise in the newspapers, "Know all men, that I intend to implement my contract?" Were the faithful observance of a promise a great novelty, such an announcement would be in order, but in that case "dignity" would scarcely come into the question. The Japanese Government assumes that its faithful observance of its treaty engagements is taken as a matter of course. It finds that the method of registration provided by it is regarded by foreigners as tending to a possible violation of those engagements. It then explains, through its Minister of Foreign Affairs and at the request of the French Representative, that no grounds whatever exist for such an apprehension, and the explanation, though officially made, is at once declared by a foreign lease-holder to be merely "a personal opinion of a Government Minister to a Foreign Representative," which carries "no authority on behalf of the Japanese Government." Our readers will agree with us that this discussion has assumed a farcical character.

Encl. No. 4(d) with
Mr. Buck's No. 417.

Japan Daily Mail
March 5 1900

THE LAND QUESTION.

Two anonymous correspondents address a local contemporary on the subject of perpetual leases. The first, who signs himself "One of the Eleven," takes exception to our remark that "the discussion had assumed a somewhat farcical character," and says that if the Editor of the *Mail* had a few hundred thousand dollars invested in Yokohama property, he would not find the position so exceedingly comical. If "One of the Eleven" read our comments, he must have seen that we applied the epithet "somewhat farcical," not to "the situation," as he alleges, but, first, to the arguments advanced by a local contemporary which, in the face of the fact that the whole complaint of the land-holders is based on the taint of superficies supposed to have been given to the leases, nevertheless denied that superficies had anything to do with the trouble; and secondly, to the suggestion of a correspondent that the Japanese Government ought to issue a notification announcing its intention of observing its treaty engagements. To say that the line taken by such controversialists is "somewhat farcical" and to say that "the situation is exceedingly comical" are two wholly different assertions. We might allege, with truth, that Christianity has often had farcical expounders, but no honest man could pretend, on the strength of such a statement, to charge us with saying that Christianity is exceedingly comical. With writers of the type of "One of the Eleven" it certainly is not worth while to argue.

The second correspondent, "Romulus," says:—

> So long as the grounds are held by the Government and are recognized as "*Kwan yu chi*," the tenure may be *comparatively* safe because it is unlikely that any question will be raised in the Courts, but suppose that the Government *sells* the land to private parties and questions *are* raised—what then?

That appears to us to illustrate what we have often said, namely, that the whole difficulty arises from failure to appreciate the Government's obligation not to take any step calculated to impair the title guaranteed to foreigners by the treaties. As a matter of fact, the Courts have no competence to meddle with the lands. The 45th Article of the Law of Operation of the Civil Code removes these titles entirely beyond the purview of the legal tribunals.

Japan Daily Advertiser
March 1 1900

THE *Mail* of yesterday publishes a communication received by His Excellency the French Minister from the Minister of State for Foreign Affairs, which would seem to settle beyond peradventure the status of the land in the Settlements held by foreigners under perpetual lease titles. The communication reads as follows:—

> The provisions of the Japanese Civil Code that might conflict with those of the Treaties evidently do not apply to the right of perpetual lease.
>
> The provisions of Article 268 of the Civil Code, limiting the rights of holders of superficies, and, as a general rule, all provisions implying conditions other than the conditions inscribed on the title deeds of the perpetual leases, do not apply, as a matter of course, to those leases.

Hardly anything, it seems to us, could be more explicit or more satisfactory than this authoritative declaration. It confirms the feeling we expressed on the subject in a recent issue, when we suggested it to be "simply inconceivable that a Government which has any regard for its own honor and dignity should be engaged in any underhanded attempt to evade its treaty obligations, or to so frame the language of its ordinances as to furnish an opportunity for it to take advantage of some possible future evasion, in the transfer of titles."

Daily Advertiser
March 1 1900

Encl. No. 481
with Mr. Bucks No. 417.

Japan Daily Herald
July 12. 1900

The Kobe Chronicle.

MONDAY, MARCH 5TH, 1900.

THE ASSURANCE TO M. HARMAND.

WE note that Viscount AOKI, the Minister for Foreign Affairs, has addressed to M. HARMAND, the French representative, a note regarding perpetual leases of almost similar tenor to that addressed to the British Minister, and reproduced in our columns a few weeks ago. In the latest note Viscount AOKI says:—"The provisions of the Japanese Civil Code that might conflict with those of the Treaties evidently do not apply to the right of perpetual lease. The provisions of Article 268 of the Civil Code, limiting the rights of holders of superficies, and, as a general rule, all provisions implying conditions other than the conditions inscribed on the title-deeds of the perpetual leases, do not apply, as a matter of course, to those leases." The objection taken by some, it will be remembered, was that registration of the leases by the Imperial Ordinance issued at the end of last December under the title of "superficies (perpetual lease)" might bring such deeds within the limits of Article 268 of the Civil Code, which reads:—"In cases where the period of duration is not fixed by the act creating the right of superficies, the superficiary may, when there is no special local custom to the contrary, relinquish his right at any time. But when ground-rent has to be paid, one year's notice must be given, or one clear year's rent be paid." As the right of relinquishment, however, thus lies with the lessee, there is not much to object to in this clause. It was the clause which followed that raised some anxiety in the minds of lease-holders. This runs:—"When a superficiary does not avail himself of the provisions of the preceding clause and relinquish his right, a court of law shall, on the application of the parties, determine the period of duration within the limits of twenty and fifty years, taking into consideration the nature and condition of the buildings, or of the bamboos and trees, and also the circumstances existing at the time the right of superficies was created." With the above must be read Article 44 of the Law concerning the Operation of the Civil Code, which says:—"If the duration of a superficies created before the taking effect of the Civil Code has not been determined, and the parties concerned make the application provided for in Article 268 (2) of the Civil Code, the Court must fix its duration within the limit of not less than twenty years from the time of its creation and not more than fifty years from the day when the Civil Code took effect." It will thus be seen that in both these cases it is the parties concerned who must put the law in motion with regard to the limitation of a superficies—that is to say, either the lessor or the lessee. Now, with the exception of a few lots on the hill in Kobe—not exceeding, we believe, seven in number—the lessor in the case of these perpetual leases is the Japanese Government itself. We ask whether it is credible that the Japanese Government, even supposing that these leases were registered as superficies, would, in face of the stipulations in the Treaties regarding leases in perpetuity, be likely to set the law in motion with the object of limiting the term of their duration? If the Japanese Government were to attempt this, then the new Treaties might as well be torn up altogether, for there could be no surety that any part of them would be operative. It seems to us that it is incredible the Government is likely to attempt anything of the sort, and we understand that such is the view taken in Kobe by those most concerned. If confirmation be needed, it is to be found not only in the Imperial Ordinance which declares the form of registration to be a special kind of superficies by the insertion of "perpetual lease" in brackets after the word, but in the specific declaration of the Japanese Government, made both to the British and the French Minister, that the provisions of Article 268 of the Civil Code relating to superficies shall not be applied to these perpetual leases. The principal protection, however, is to be found in the fact that the Japanese Government is the only party that can put the law in motion to restrict the term of these leases, and as such a course could only be taken after a denunciation of the Treaties which contain provisions safeguarding them, it is not within the bounds of reasonable discussion. We think it is worth while pressing this point, because it seems to us, after close consideration, that the energy which has been spent in fighting this matter is quite wasted, and only tends to evoke an uneasy feeling that must tend to depreciate the value of the property involved. The assurances given by the Japanese Government seem to us simply sufficient to allay any anxiety in this matter which the holders of perpetual leases may at one time have felt.

ALLUDING to a paragraph contained in a recent issue of this journal, the *Mail* makes no attempt to deny the facts mentioned by us, but goes on to say that such an assertion as that "in the eyes of a law court, the latter is bound to consider the certified entry in the registry only, and cannot take any notice of a lease," is "apt to create much disquiet in the minds of land holders," and it then proceeds to "ask them to listen to a few plain facts," which it proceeds to give as follows, that under the 45th Article of the law of the Civil Code, settlement lands are excluded from the scope of the Code. Next, that no law court has competence to interfere arbitrarily between landlord and tenant, and finally, that the Government would have to begin by rescinding its own ordinance. This latter, by the way, in face of the fact that the Government is virtually attempting to rescind a right guaranteed by treaty,—a more difficult thing to accomplish. The rescinding of one of the Government's own ordinances, with the assent of the Diet, would not probably prove of much difficulty. It must be admitted that settlement lands are excluded from the Civil Code by express enactment, but unfortunately there is no provision of the requisite machinery required for their administration; the only provision made is for the registration of "superficies, (perpetual lease)," a column being left for a record of these hybrid creations, which are contradictory of each other,—superficies having a time limit *ab initio*, or afterwards to be determined, and a perpetual lease, as a matter of course, has none. As to the right of law courts to interfere when a question of title is raised, which a dissatisfied purchaser has the liberty to do, there can be no question of that, and this when the record of a perpetual lease is looked into, it will be found by the production of a copy of the register, that his holding is recorded only as a superficies title.

To us it appears as simply atonishing that the Government's action with respect to land held by persons entitled to a clear title to a perpetual lease, should be persisted in, thereby casting a cloud upon what ought to be regarded as a proper title. The very fact of the Government's provoking any question on the subject, and refusing or neglecting to resort to the simple and obvious remedy of what is amiss, by either issuing an Imperial ordinance, or passing a short bill through the Diet curing the deficiency complained of, is enough to create suspicion and cause anxiety to landholders.

(Rights not mentioned in the 3 preceding Sections)	Section d
	R. R.
	Fact Column
	R. R.
	Fact Column
	R. R.
	Fact Column

(Leased) Section C	
	R. R.
	Tracts Column
	R. R.
	Tracts Column
	R. R.
	Tracts Column

(Preferential Rights)
Pledges, Mortgages

Section B (Ownership)	R.R.	Facts Column	R.N.	Facts Column	R.R.	Facts Column
	No. 1	No. 692. Received February 13, 1900. On behalf of Kubo Eiichi, No. 183, Kitagata, Hommoku Mura, Kuragi Kori, Musashi Province, Loan of yen 7,000 made February 13, 1900, without interest. Payment of yen 280 to be made on the 30th day of each month from February, 1900, to		October 1900. The balance to be paid on the 30th day of November, 1900. Mortgage therefor is registered. The properties R.R. 2 to R.R. 11 of this book are the objects offered as security. (Stamp)		

	R.R.	Facts Column	R.R.	Facts Column	R.R.	Facts Column
Section A	No. 1	No. 324. Received January 29, 1900. On behalf of Chin Jen Shin, a subject of China, No. 146 Yamashita Chō, Yokohama Shi, ownership possessed by him is registered. (stamp)				
	No. 2	No. 135. Received February 15, 1900 On behalf of Kan Ko Sho, a subject of China, No. 81, Yamashita Chō, Yokohama Shi, the acquisition, by purchase, of the ownership, February 15, 1900 is registered. (stamp)				

No. of Registry.	(designation of the building) Caption Spaced	d.n.	designation Column	d.n.	designation Column	d.n.	designation Column
No. I	No. I		Upon 480 tsubo of the Government owned lands, No. 145, Yamashita Cho, Yokohama Shi, 1 brick-built, tile-roofed, 2 storied house. Area of building 59 tsubo 5 go Plus 2nd story 49 tsubo Diagram filed 1st Vol. P. 1 "Diagram File Book." (Stamp)				

P 1

Enclosure No. 5 (d) with
Mr. Bucks No. 417.

Copy pds Building Regulations Book

(Rights not mentioned in the 8 preceding Sections) Section D	
	R. R.
	Facts Column
	R. R.
	Facts Column
	R. R.
	Facts Column

(Leased). Section C

	R. R.
	Tracts Column
	R. R.
	Tracts Column
	R. R.
	Tracts Column

P. W.

One word, & the line, No. 3 Column blank. (Cancelled)

(Preferential Rights, Pledges, Mortgages)	
	No II
	On behalf of — , ent. ject of — No. — St. —, Gothenburg Chi, Mortgage for a loan of (as much), interest —, date of payment —, made — day — month — year of Swedish registers. (Cancelled)

| (Ownership) | | |

Relating to Rights of Foreigners or Foreign juridical Persons.

Section A	R. N.	Facts Column	R. N.	Facts Column	R. N.	Facts Column
	No. 1	No. 216, Received January 10, 1900. Ownership possessed by ....., subject of (nationality): No. 81, Yamashita Chō, Yokohama Shi, registered on his behalf (EP)				

No. 1

No. of Registry

(Designation of the Building) No. 1 Caption Spaces

desig. no.	designation Column	desig. no.	Designation Column	desig. no.	Designation Column
No. 1.	Upon 205 tsubo of the Government owned land, No. 81, Yamashita Cho, Yokohama Shi 1 stone-built, tile-roofed, 2 storied house. Area of building: 65 tsubo. Plan; 2nd story 40 tsubo. Diagram filed 2nd Vol. p. 100, "diagram File Book."				

P1

Building Registry Book

Enclosure No. 5-(c) with Dis. Bucki No. 417.

Items entered upon supposition.

Vol. ..... Yamashita Chō

Building Registry Book
relating to Rights of Foreigners or Foreign Juridical Persons.

Yokohama Shi Saibancho

(Rights not mentioned in the 3 preceding sections) Section d	
	R. R.
(Under this section Judge Walanabé believes that documents in the nature of Trust deeds and the like should be recorded)	Fact Column
	R. R.
	Fact Column
	R. R.
	Fact Column

(Taxes) Section O

R.R.	Facts Columns	R.R.	Facts Columns	R.R.	Facts Columns
	No.— Received — day —month— year Meiji. On behalf of —, Subject of — No.—, Street—, Yokohama Shi, the lease for — years from— day— month —year Meiji to — day— month —year Meiji, at the rate of — per month payable on— day of each month. (Stamp)				

(Preferential Rights
Pledges, Mortgages)

(Superficies) Perpetual lease						
Section B	R.R.	Facts Column	R.P.	Facts Column	R.P.	Facts Column
Suppl. 1, Suppl. 2 & No. 1		No. — Received — day — month — year Meiji On behalf of —, subject of No. — Yamashita Chō, Yokohama Shi, Mortgage for loan (amount) made — day — month — year, Meiji, interest —, date of payment — is registered. N.B. Property Register No. 1 Building Registry Book Vol. 1 Yamashita Chō are the objects offered as security. (Stamp)				
			Suppl. 1 no. 1	No. — Received — day — month — year Meiji. It is supplemented that of the mortgage registered No. 1, the date of payment is postponed from — day — month — year Meiji to — day — month — year Meiji and the rate of interest altered to — (Stamp)	Suppl 2 no. 1	of the properties registered as the security of mortgage in R.R. 1 Property Register No. 1 of the Building Registry Book Vol. 1, Yamashita Chō, being released the mortgage is cancelled. (Stamp)
				It is supplemented that		

* See Note on No. 5 (a)

Section A	R.R.	Facts Columns	R.R.	Facts Columns	R.R.	Facts Columns
	No. 1	No. — Received — day — month — year Meiji. On behalf of —, subject of —, no. — st. — Yokohama Shi, the acquisition of superficies (perpetual lease) by assignment on — day — month — year Meiji, registered (stamp)		lease) by purchase on — day — month — year Meiji, is registered. (stamp)		
	No. 2	No. — Received — day — month — year Meiji. On behalf of —, subject of — no. — Street —, Yokohama Shi, the acquisition of superficies (perpetual				

	No. I	No. of Registry
(designation of lands)	Caption Space	

	No. 1	D.N.
	No. 10, Yamashita Cho, Yokohama Shi. ------ Todo, Kwannai rented lands.	designation Column
		D.N.
		designation Column
		D.N.
		designation Column

P. 1

N.B.

See note with encl. No. 5 (a)

Enclosure No. 5-(b)
With Des. Bucks No. 417.

Items entered upon supposition

Vol. —— Yamashita Chō

Land Registry Book
relating to Rights of Foreigners or Foreign Juridical Persons

Yokohama ku Saibansho

(Right not mentioned in preceding Sections) Section. d	
	R. H.
Facts Column	
	R. H.
Facts Column	
	R. H.
Facts Column	

Items entered upon supposition.

Vol. —— Yamashita Chō

Land Registry Book
relating to Rights of Foreigners or Foreign Judicial Persons

Yokohama Ku Saibansho

Enclosure No. 5-(b)
With Dis. Books No. 417.

(Rights not mentioned in 3 preceding Sections) Section. d	
	R. H.
	Facts Column
	R. H.
	Facts Column
	R. H.
	Facts Column

(Leases) Section C.

	R.R.
Facts Column	
	R.R.
Facts Column	
	R.R.
Facts Column	

P III

(Preferential Rights Pledges Mortgages)

* Note that this caption differs from Imp. Ord. No. 458, and the entries hereinunder made, in respect to the term enclosed in brackets.

Section B		(Superficies) ft. perpetual leases
	R. R.	
Back Column		
	R. R.	
Back Column		
	R. R.	
Back Column		

Section A	R. R.	Facts Column	R. L.	Facts Column	R. N.	Facts Column
	17 No. I	No. 383. Received January 29, 1900. On behalf of Ellen Robison widow, subject of Great Britain, the acquisition of the superficies (perpetual lease) on January 24, 1900, by will, is registered. (EP)				
	Supplemental 1. of No. I	No. 384. Received January 29, 1900. Superficies (perpetual lease) registered in No. 1; (by marriage, the alteration of the name into Ellen Moor, subject of Great Britain, No. 107 Yamatecho, Yokohama Shi. on January 24, 1900 is registered (EP)				

	No. I	No. of Registry
(designation of the land)	Caption Space	

	No. I	D. N.
	No 72, B, Jamatecki, Yokohama, / Government owned land, 208 tsubo. (印)	designation Column
		D. N.
		designation Column.
		D. N.
		designation Column.

P. I

N.B.

The entries made in this register are records of transfers of title supposed to be made under the provisions of Imperial Ordinance No. 458.

The original entries in the Japanese record books are supposed to contain full and authenticated copies of the original titles of lease as registered at the Consulate, in accordance with the requirement of the Japanese Government accompanying my despatch No. 322 of July 7th, last; which copies are specifically confirmed by Sec. 5 of Imperial Ordinance No. 329, referred to in despatch (417).

Enclosure No. 5 [a] with
Mr. Buck's No. 417.

This is a copy of the Land Registry relating to the old Settlement lands, and (Ep) is the seal or stamp of the Registrar of the Yokohama Ku Saibansho.

There three sheets are called 1 "yōchi" and 1 volume of Registry consists of about 50 "yōchi."

Enclosure No. 6 with
Mr. Buck's No. 417.

(Copy)

No.1822. United States Consulate General,

Yokohama, Japan, March 28, 1900.

His Excellency

Alfred E.Buck,

&c &c &c., Tokyo.

Sir:

Agreeably to the request contained in your letter of March 26, 1900, I have the honor to submit the following in response to your questions relating to the status of land tenures in the late Foreign Settlements of Japan:

1. Since the promulgation of the Japanese Imperial Ordinance No.458 of December 27, 1899, I have not heard of any instance in which there has been any specific complaint by foreigners, or controversy with the authorities, concerning the registration of transfers of property.

2. It is my opinion that that Ordinance, as interpreted by the Japanese Minister of Foreign Affairs, secures foreign holders of property their rights under the treaties.

3. The interpretation of the Japanese Government, as given by the Minister for Foreign Affairs, of that Ordinance, is a reasonable one.

4. The Judge of the Yokohama Ku Saibancho, who ignored the treaty provisions, and who apparently took the view that the Civil Code of Japan contained all of the law applicable to such registration, has very recently "resigned" and has retired to private life. What his successor may do is uncertain, but in view of the requirement of the Ordinance that he shall register "a copy of the title deed in question", it strikes me that it is of very little importance what his opinion in

the

the matter may be. The assurance of the Minister of Foreign Affairs amounts to a pledge of the good faith of the Japanese Government.

5. The Civil Code provisions do not, and evidently were not intended to, cover the registration of the Foreign Settlement titles. They are exceptional titles. The term "superficies" whether alone or bracketed with ("perpetual lease") is unscientific and inaccurate. Strictly speaking, these tenures appear to be of the nature of determinable fees; but, all things considered, it is not a matter of vital importance that they be known by any particular name. What is of importance is that their nature or character be preserved in the manner stipulated in the original title deeds from the Japanese Government. This will be done, I believe, by recording "a copy "of the title deed in question".

6. Your sixth question reads:-

"Does a proper construction of Art.XVII of the treaty be-"tween the United States, or treaties of other powers, with "Japan, exempt foreign holders of perpetual leases in the for-"eign settlements from any tax on buildings erected on their "leased land?"

Reading Art.XVII with the aid of Article II of the treaty, a fair construction appears to be that the tax on buildings is payable, unless we can find an exemption in a treaty with another power. The treaty with France has been cited in this connection, and until the French and Japanese Governments determine what and how much they mean by the word "propriétés" in Article XXI, our position must remain uncertain.

7. I have not heard of, and do not believe that there is, any unfair discrimination made against foreigners in the mode of levying taxes on buildings or in the amount of such tax.

8. To require a separate registration of the transfer of buildings, where they are sold with the land, would be, in my opinion, in the case of foreign settlement property, a manifest violation of precedents in connection therewith and an evasion of the intention of the treaty provisions. For purposes of taxation the land and the buildings may be regarded separately, but, in passing title, they are, under American, English, and most continental laws, considered as united. Previous to July 16, 1898, the date of the coming into force of the Civil Code, there was no general law of real property in Japan. Local customs prevailed and the modes of tenure were of great variety. The American treaty with Japan was promulgated in 1895.

9. The 2½ per cent tax on registration of transfers ought not to be levied on the value of buildings if they are conveyed with foreign settlement land. If they are conveyed separately, I can see no reason for their exemption from such tax. The Japanese Government, by Ordinance No.458, has, in effect, conceded the exemption of the land from this tax.

10. I can find no express treaty stipulation under the recent extraterritorial jurisdiction, whereby foreigners in Japan were exempted from taxation. The Japanese Government then refrained from taxing foreigners, probably under motives of policy. To inforce collection in every case would have involved resort to about seventeen different consular courts, and would have produced endless petty squables and friction. Other reasons, if any, should appear in the legation records.

11. I do not believe that any sovereign state would be bound to admit the force of prescription as applicable to exemption from taxation.

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11. I do not believe that any sovereign state would be bound to admit the force of prescription as applicable to exemption from taxation.

12. Between the years 1865 and 1868, by arrangement with the Japanese authorities, the foreign land holders of Yokohama selected a committee known as the Municipal Council of the Foreign Settlement, for the purpose of regulating police, street, and other local affairs. This Council derived its income from 20 per cent of the ground rents donated by the Kanagawa Kencho and from monthly licenses for the sale of liquors. The revenue from these licenses was soon lost by reason of the refusal of some of the dealers to pay it, and in 1868, it being found that expenses were in excess of income, and the Japanese being anxious to resume control, the so-called municipal system came to an end. No taxes other than for liquor licenses and ground rent were ever paid by foreigners here previous to treaty revision. Expenses for street lighting and sprinkling have been met by voluntary contributions.

13. At the time of the first allocation of lots of land to foreigners here, Yokohama was a small fishing village and tenures were governed by local custom. So far as I can learn, these tenures were of a feudal nature. The Japanese Government obtained the lands required from the original holders and became the direct landlord vis à vis the foreigners. At the time of the recent revision of the treaties the classification of native owned land in Yokohama had assumed in most respects the forms now existing—that is so far as taxation is concerned.

14. Lot No.4 B, Bund, Yokohama, occupied by the new Yokohama United Club, contains 540 tsubos, and the annual ground rent thereon amounts to Yen 151.$\frac{66}{100}$ With the new building this property is estimated to exceed Yen 250000. in value.

Lot No.11, Bund, Yokohama, occupied by the Oriental Hotel contains

contains 498 tsubos, and the annual ground rent thereon amounts to Yen 139.31/40 The property is capitalized at Yen 300000.

Lots Nos.18, 19, and 20, Bund, Yokohama, occupied by the Grand Hotel, contain 1735 tsubos, and the ground rent thereon amounts to Yen 485.35/100 The property is capitalized at Yen 250000.

No purchase money whatever was paid for these lands by the original foreign holders, to whom they were allotted upon application approved by the consuls and upon the payment of a certain amount of ground rent in advance.

I may be able, in a few days, to add further information of interest in the premises. Meanwhile, I trust that these hastily written observations may be of some value to you.

I have the honor to be, &c

(Signed) Geo.H.Scidmore,

Deputy Consul General.

N.B. - See supplementary report of Mr. Scidmore, attached, giving full value of the Yokohama Club and the Oriental Hotel properties. Club land value, ¥ 75,000.-; tax, ¥ 157.06; rate, a little more than .002. Oriental Hotel land value, ¥ 50,000.- ; tax 139.31 ; rate a little less than .003

(Copy).

Consulate General of the United State

Yokohama, April 3, 1900.

Dear Minister Buck,

The Yokohama Club property is valued thus:-

Ground ----------	Yen 75,000.--
Building ----------	160,000.--
Machinery ----------	30,000.--
Furniture etc ----------	50,000.--
Billiards & Bowling ------	12,000.--
Library ----------	10,000.--
Total,	Yen 337,000.--

The Oriental Hotel property is estimated as probably worth:-

Ground ----------	Yen 50,000.--
Building ----------	150,000.--
Furniture, Good Will, etc--	100,000.-- (?)
Total,	Yen 300,000.--

I shall send you figures for the Grand Hotel later.

Yours respectfully,

(Sg'd) GEO: H. SCIDMORE.

Enclosure No. 7 with
Mr. Buck's No. 417.

(Copy)

No. 1829.

United States Consulate General

Yokohama, March 30, 1900.

His Excellency,

Alfred E. Buck,

etc.; etc., etc.

Sir:

I have this morning had a long interview with Judge Watanabe, President of the Yokohama Chiho Saibansho, relative to the land titles of the Foreign Settlement, and the following are the leading items of infromation then obtained by me:-

1. Not a single transfer of foreigner's property here has been presented for registration since the issuance of the Ordinance No. 458 of December 27, 1899.

2.- When a case arises it will be disposed of in accordance with that Ordinance, and registration will be made in the form directed by Ordinance No. 329, of July 6, 1899. (See Lonholm's Translation of Law Concerning Registration of Immoveables, pages 77, 88, and 90.)

3. A deed from a foreigner conveying land with buildings thereon must be registered in the Land Register and the Buildings Register separately. The fact of such registration will appear by two endorsements on the deed.

4. The Saibansho, under Ordinance No.458, will receive through the Kencho and register a transfer of land only. The registration of the transfer of, or any right affecting, the buildings can be obtained only by separate and direct application to the Saibansho.

5. The registration fee (a percentage on the value of the property) will be exacted in all cases except actual transfer of land. On mortgages, I am informed by the Kanagawa Kencho, this fee will be 6/1000 of the value.

6. Judge Watanabe will send to me a copy of the Register showing how a transaction will be treated. I am sorry that I cannot get it to-day.

I have etc., etc.

(s'd) GEO. H. SCIDMORE

Deputy Consul General

N. B. - In my letter No. 1822 of the 28th instsnt, paragraph 12, "one-third of the ground rent" should read "twenty per cent of the ground rent". Kindly make this correction.

Enclosure No. 8 with
Mr. Buchi No. 417

(Copy for Reference)

Port of Yokohama

LAND REGULATIONS

---

1. Mode of Acquiring Land.

Any person desiring to lease land within the location fixed upon for foreign renters must first apply to the Consul or Consular Agent of his nation, officially and in writing, or if there be nine appointed, to the Consul of any friendly power, specifying as nearly as can be ascertained the locality and boundaries of the said land, and the said Consul or Consular Agent will thereupon enquire of the Land Officer and the other foreign consuls whether any impediment exists to its settlement by reason of previous negotiation or application by third parties, or otherwise, provided always that if such impediment do exist, then and in such case a reasonable time shall be allowed the first claimant to settle for the said land; and the failing to do so within such reasonable time shall be considered and held a virtual surrender of such prior right of settlement, and the same shall revert to the foreigner next applying, on notice to that effect being given to his Consul, and no good cause shown why it should not revert as aforesaid.

II Only bona fide residents elligible to rent land.

Allotments of land will be made only to bona fide residents and renters of land will be required, under penalty of forfeiture of title deed, to erect within six months after date of title deed and in accordance with these regulations buildings of a value of not less than,—

On water lots $150 for each 100 tsubo measurement,

On rearage lots $50 " " " "

III Final Settlement and Title Deeds.

The

The priority of the individual claimant having been determined as aforesaid, a note under the hand and seal of the consul will be furnished him for delivery to the Land Officer who will without delay proceed with him to measure the land in question.

The measurement having been ascertained, the money for one year's rental will be immediately paid to the Chief Land Officer, who will give a receipt in triplicate, with translation, for the same, stating also the measurement and boundaries of the said land. Two copies of the said receipt will be handed by the renter to his consul, who will transmit one copy to the Governor. The Governor will forthwith issue a title deed in triplicate in the form agreed upon and hereunto annexed, one copy to be archived by the Governor, one by the Consul, and one copy to be delivered to the renter.

The Governor will also notify the other consuls of the issue of such title deeds, specifying the measurements and boundaries of the land.

IV Boundary Stones to be Placed.

When land is rented a time will be appointed, and stones having the number of the lot distinctly cut thereon, to define the boundaries, will be fixed in the presence of an officer deputed by the Consul, of the Land Officer, or his deputy, and of the renter, in such manner that they may not interfere with the lines of road or the boundaries, or in any other way give cause for litigation or dispute hereafter.

V Streets, Roads, Sewers, and Jetties.

It is clearly understood and agreed to that land devoted to public use as streets, roads, etc., is not included in the measurement of rented lots, and is not to be infringed on in any way.

In

In the acquirement of new lots of land, provision shall be made for the requisite extension or creation of streets, roads, and jetties.

The proprietorship of the soil being in the Japanese Government, the streets, roads, and jetties will at all times be kept in thorough order and sewers or drains will be made when necessary by the Japanese Government, and no tax will be levied on renters of the foreign quarter for this purpose.

VI Rent — When Payable.

The annual rent payable to the Japanese Government on all land rented within the foreign quarters will be payable in advance on the — day of the — month of each year.

The Governor will address the several consuls ten days previous to the said date, stating when, where, and to whom, the said rent must be paid, and the said consuls will give notice to the renters. The oficer appointed to receive the rent will give a receipt in triplicate, with translation, for the same, one copy of which shall be archived by the Governor, one copy by the Consul, and one to be delivered to the renter.

Should a renter neglect to pay the rent on the day fixed the Governor will acquaint the Consul under whose jurisdiction the defaulter is, who will enforce immediate payment.

VII Transfer of Lots.

The interest in a lot shall always be held in law and equity to reside in that person in whose name the title of record appears, and no title shall pass unless the deed is lodged for record within three days from the date of the conveyance: — but no lot can be transferred within one year after the date of title deed.

Within the said foreign quarter no Japanese shall erect new

new houses or sheds so near the residences or places of business of foreigners as to endanger them in case of fire, and if he does the Governor will abate the nuisance.

No Japanese shall open a place of public entertainment within said location without the unanimous consent of the consular authorities under the penalties hereinafter provided against maintaining a nuisance.

VIII. Extent of Lot and Usage to which Applied.

Straw sheds, bamboo or wooden houses, or buildings of inflammable kinds shall not be erected in the settlement nor shall any trade or profession be carried on within its limits dangerous to the safety of life or property, or obnoxious to the general health, under a penalty of $25 for every twenty-four hours such nuisance shall remain unabated. Nor shall contraband goods or merchandise likely to endanger life or property,—such as gunpowder, saltpeter, sulpher, large quantities of spirits and such like be stored in the premises of any individual under a penalty of $25. and $25. for every twenty)four hours the nuisance shall remain. The place where such trades or professions may be carried on , or where such merchandise may be stored must be sufficiently distant from either dwellings or warehouses to prevent all risk of damage or inconvenience , and be fixed upon by the authorities after consultation together.

The public roads must not be encroached upon or obstructed as by scaffolding for the purpose of building, or by building materials of any kind, beyond the time essential for the completion of the work, or in such manner as shall at any time block up or materially interfere with the thoroughfares, or by projecting eaves of houses or fences, or gates, or door-steps,

or

or entrances; by the heaping up of goods for any length of time, and such like, under a penalty of $10 for each twenty-four hours they shall remain after a notification by the Japanese or consular authorities to remove them.

The public or individual must not be inconvenienced by the accumulation of filth in gutters or upon the roads; by the firing of guns, carelessly creating noise or disturbance, furious riding or driving, or leading horses up and down the chief thoroughfares for exercise; or by any act coming legitimately within the meaning of the term nuisance, under a penalty of $10. on commission of either of said offences. All fines shall be recovered before the Consul of the nation to which the offending party belo ngs, or if there be none in the port, then they may be recovered before the Japanese authorities, and shall be paid over to the committee appointed under Clause 9 of these regulations to be used for the purpose therein stated, and for which said committee is appointed.

IX Street Lamps and Police.

It being expedient and necessary that some provision should be made for the lighting and cleansing of streets and for a watch or police force, the foreign consuls aforesaid shall at the beginning of each year convene a meeting of the renters of land within the said foreign quarter to devise means of raising the requisite funds for these purposes; and at such meeting it shall be competent to the said renters to declare an assessment in the form of a rate to be made on the said land or buildings, and in the form of wharfage dues on all goods landed at any place within the said quarter; and to appoint a committee of three or more persons to levy the said rates and dues, and apply the funds so realized to the purpos-

es

es aforesaid, or in such manner as may be agreed and determined upon at the said meeting; and to that end the said committee shall be empowered to sue all defaulters in the consular courts under whose jurisdiction these may be; and in case the said defaulters have no consular representative at this port, then the Governor of Yokohama shall upon application of the committe to the foreign consuls, recover from such defaulters the amount due from them for land assessment or wharfage dues, and pay the same to the said committee.

Moreover, at such yearly meeting the accounts of the committee for the past year shall be laid before the assembled renters for their approval and sanction.

It shall be competent for the foreign consuls collectively or singly, when it may appear to them needful, or at the requisition of the renters of land, to call a public meeting at any time, giving ten days notice of the same, setting forth the business upon which it is convened, for the consideration of any matter or thing connected with the land; provided always such requisition shall be signed by not less than five of the said renters and that it set forth satisfactory grounds for such request.

The resolutions passed by a majority at any such public meeting on all such matters aforesaid shall be valid and binding upon the whole of the renters of land within the said limits, if not less than one third of them are present. The senior Consul present at any such meeting shall take the chair, and in the absence of a consul then such renter as the majority of voters present may nominate.

If renters of land in public meeting assembled as herein provided, decide upon any matter of a municipal nature not already

ready enumerated, and affecting the general interest, such decision shall first be reported by the chairman to the consuls for their joint concurrence and approval, without which approval officially given such resolution cannot become valid and binding upon the renters as a body.

X Sale of Spirits or Liquors; Opening of Public Houses &c.

No Foreigner or Japanese shall sell spirits or liquors or open a house of entertainment within the foreign quarter without a license to do so from the said consuls, or the majority of them, and if a Japanese, also from the Governor, and upon good and sufficient security given for the maintenance of order in their establishments.

XI Breach of Regulations.

Should any one of the consuls at any time discover a breach of the regulations or should information thereof be lodged with him, or should the local authorities address him thereon he shall in every csae within his jurisdiction summon the offender before him, and, if convicted punish him summarily.

Should any foreigner who has no consular authority at this port commit a breach of the regulations, then and in such case the Japanese chief authority may be appealed to by any one or more of the consuls to uphold the regulations in their integrity and punish the party so infringing them .

XII Provisional Clause.

Hereafter should any correction be requisite in these regulations, or should it be necessary to determine on further regulations, or should doubts arise as to the construction of or powers conferred thereby, the same must be consulted upon and settled by the consuls and Governor in communication together

gether, who shall equitably decide thereon, the consuls submitting the same for confirmation to the representatives of their respective countries in Japan.

The consuls referred to in these regulations are Consuls (or persons duly acting as such), of powers having treaties with Japan. (Signed) F.Howard Vyse,

H.B.M Acting Consul.

E.M.Dorr,

U.S.Consul.

D.de Graaf Van Polsbrock, H.N.M's.

Vice Consul.

A true copy

(Signed) Philip Buchanan Walsh,

Acting Junior Assistant.

Encl. No. 9(a)
With Mr. Buck's No. 417

Yokohama
Bluff

FOREIGN SETTLEMENT, BLUFF.

TITLE DEED FOR LOT NO. 118.

IN CONSIDERATION of the sum of Mexican Dollars _____ the receipt of which is hereby acknowledged, the undersigned Kanagawa Ken Rei hereby leases to Mrs. V.T.Lindsley, an American citizen, her heirs, executors, administrators and assigns the lot of land known and described on the official plan of the Foreign Bluff Settlement of Yokohama as Lot number One hundred and eighteen containing Tsubos Twenty five Hundred and sixty one, as long as she or her heirs, executors, administrators or assigns shall pay or cause to be paid to the Japanese Government ground rent at the rate of Twelve Mexican Dollars per one hundred tsubos as hereinafter set forth, on the following conditions:-

FIRST.- That the said Mrs. V.T. Lindsley, her heirs, administrators, or assigns shall pay in advance on the first day of June in each and every year to the Japanese Government, at the Kanagawa Ken-Cho, the sum of Mexican Dollars Three hundred and seven and cents thirty two as rent for said lot.

SECOND.- That any transfer of said lot or any portion thereof shall be made to no other person than a subject or citizen of a Power having a treaty with Japan and shall be executed before the Consul of the parties concerned and shall be registered at the Kanagawa Ken-Cho.

THIRD.- That no portion of such lot or any building which may be erected thereon shall be sold or leased to any Japanese subject, unless both the Japanese and Consular Authorities grant an official act of authorization under their seals of

office legalizing such transfer or lease; which said act may be granted or refused in the exercise of their discretion.

FOURTH.- That the said Mrs.V.T.Lindsley, her heirs, executors administrators and assigns shall conform to the Regulations made by the late Governor of Kanagawa Ken and the Consular Authorities, and to such further regulations as may at any future time be made by the Japanese local Authorities and said Consuls in conjunction.

The non-performance of any of the aforesaid conditions will render this Title Deed null and void, the said lot shall revert to the Japanese Government and the buildings thereon shall become their property.

Done in duplicate, one copy being given to the Renter and one being filed at the Ken-Cho of Kanagawa this sixteenth day of November, 1880.

KANAGAWA KEN.

Encl. No. 9(b)
with No. 417.

Yokohama Lower Settlement

FOREIGN SETTLEMENT, YOKOHAMA.

TITLE DEED FOR LOT NO. 200.

IN CONSIDERATION of the sum of Mexican Dollars _____ the receipt whereof is hereby acknowledged, the undersigned Governor of Kanagawa Ken hereby leases to Everett Frazar and John Lindsley, U.S. citizens, their heirs, executors, administrators and assigns the lot of land known and described on the official plan of the Foreign Settlement of Yokohama as Lot number Two hundred containing tsubos four hundred and twenty-two (422) so long as they or their heirs, executors, administrators or assigns shall pay or cause to be paid to the Japanese Government ground rent at the rate of Mexican dollars 27.97,428, per one hundred tsubos as hereinafter set forth, on the following conditions:-

FIRST.- That the said Everett Frazar and John Lindsley, their heirs, executors, administrators, or assigns shall pay in advance on the thirty first day of January in each and every year to the Japanese Government, at the Kanagawa Ken-Cho, the sum of Mexican Dollars One hundred and eighteen and cents five ($118.05/100) as rent for said lot.

SECOND.- That any transfer of said lot or any portion thereof shall be made to no other person than a subject or citizen of a Power having a treaty with Japan and shall be executed before the Consul of the parties concerned and shall be registered at the Kanagawa Ken-Cho.

THIRD.- That no portion of said lot or any building which may be erected thereon shall be sold or leased to any Japanese subject, unless both the Japanese and Consular authorities grant an official act of authorization under their seals of

office legalizing such transfer or lease; which said act may be granted or refused in the exercise of their discretion.

FOURTH. - That the said Everett Frazar and John Lindsley, their heirs, executors, administrators and assigns shall conform to the Regulations made by the late Governor of Kanagawa and the Consular Authorities, and to such further regulations as may at any future time be made by the Japanese Local Authorities and said Consuls in conjunction.

The non-performance of any of the aforesaid conditions will render this Title Deed null and void, the said lot shall revert to the Japanese Government and the buildings thereon shall become their property.

Done in duplicate, one copy being given to the Renter and one being filed at the Kanagawa Ken-Cho this eighth day of March 1890.

(Sd) Asada Yasunori,

GOVERNOR OF KANAGAWA KEN.

Encl. No. 10 with
Inst. Books No. 417.

(Copy)

What is the size of the lot occupied by the Consulate General in Yokohama and what is the present estimated value? What is the amount of annual ground rent?

Ans.- The lot measures 627 tsubos. The estimated value is 150 Yen per tsubo. The annual ground rent is Yen 175.40 payable in advance.

Value of lot as above Yen 94,050.—. Ground rent .0018 of value.

What is the value of the building occupied by the Consulate and what is the amount of House Tax?

Ans.- The estimated value of the building is Yen 5000.-- The House Tax paid for 6 months amounted to Yen 31.89.

House tax for 6 months .006 of value.

What is the estimated value of the lots on the Bluff owned by you and what is the amount of annual ground rent?

Ans.- Lot No. 206 Bluff contains 989 tsubos and is estimated value is Yen 15 per tsubo.

Value of lot as above Yen 14,835.—. Ground rent @ .12 per tsubo = Yen 118.68 or .008 of value.

What is the value of the buildings on the said lots and what is the amount of house tax levied thereon?

Ans.- The present value of the buildings is Yen 14,000.-- The house tax amounted to Yen 14.-- for six months.

House tax for 6 months = .001 of value.

(Signed) JOHN McLEAN

April 4th, 1900.

DIPLOMATIC,
MAY 10 1900
BUREAU.

UNITED STATES LEGATION,
TOKIO.

RECEIVED.
MAY 10 1900
BUR. ACCOUNTS. DEP. OF STATE.

No. 2

INDEX BUREAU
REC'D.
10 MAY 1900
DEPT. OF STATE

April 13, 1900.

May 17, 1900, acpw
Journal of York
to send amount
to Dept. D.C.

Honorable John Hay,

Secretary of State,

Washington, D.C.-

Sir:

I have the honor to enclose herewith statement of account for expenses of the Japanese Government incurred in connection with the extradition of Alba M. Kent, Jr., for which I have drawn upon the Secretary of State as directed by instruction No. 274, of March 8, last.

Check for 160.91
for expenses referred to received
and sent to Secy Treasy for
Collector to credit of
appropriation
Criminals 1900.
June 7, 1900.
M.

I have the honor to be,

Sir,

Your obedient servant,

Enclosure:

Statement of account as noted.

Filed under U.S. Legation to Japan

TELEGRAM RECEIVED. To Paid.

DEPT OF STATE DIPLOMATIC, U.S.

10 AM 1900 APR 16 1900

BUREAU.

From Los Angeles, Calif., April 15, 1900

Received 10:30 P.M.

2D ASSISTANT SECRETARY.
Ask. brief regret.
Bu. of Accts will note delay.
APR 16 1900

State Department,

Washington, D.C.

Apr 18

Regret serious illness in family has delayed arrival home or Washington. Permanent address 1427 North Meridian, Indianapolis.

Joseph R. Wood.

UNITED STATES LEGATION,
TOKIO.

No. 418

DIPLOMATIC, April 16, 1900.

ASSISTANT SECRETARY
MAY 11 1900
DEPARTMENT OF STATE.

MAY 12 1900
BUREAU.

INDEX BUREAU
REC'D.
10 MAY 1900
DEPT. OF STATE

Mr. Buck

to the Secretary of State.

Subject:

Thanks have been expressed to the Japanese Government for courtesies extended to the 48th Regiment of U.S. Infantry.

No. 418

LEGATION OF THE UNITED STATES,

Tokyo, Japan, April 16, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to acknowledge the receipt of your Instruction No.276, dated the 15th ultimo, directing me to express to the Japanese Government the appreciation of the War Department for the courtesies extended to the 48th Regiment of United States Infantry, to whom was extended the permission to hold a dress parade and drill on shore at Yokohama, other courtesies also being shown them at Nagasaki.

Today I conveyed to Viscount Aoki the expressions of thanks, as instructed.

I have the honor to be,

Sir,

Your obedient servant,

W. Buck

UNITED STATES LEGATION,
TOKIO.

ASSISTANT SECRETARY
MAY 19 1900
DEPARTMENT OF STATE.

No. 419

April 23, 1900.

INDEX BUREAU
REC'D.
16 MAY 1900
DEPT. OF STATE

DIPLOMATIC,
MAY 21 1900
BUREAU.

Aoka
May 26

Mr. Buck

to the Secretary of State.

Subject:

Question of saluting Russian Vice Admiral at Nagasaki.

No. 419

LEGATION OF THE UNITED STATES,

Tokyo, Japan, April 23, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

Supplementary to the enclosures with my Dispatch No.411 of the 13th ultimo, concerning the unpleasant incident occuring at Nagasaki between Captain Longenecker, Commander of the U.S.Cruiser NEW ORLEANS, and the Russian Vice Admiral on February 25th last, I have the honor to enclose herewith copy of a communication from Rear Admiral Watson, late Commander-in-Chief of our Asiatic Squadron, in which he seems to take a view quite different from mine. Though convinced that Captain Longenecker was actuated solely by an honest desire to comply with the requirements of international courtesy, as set forth in the Navy Regulations, the Admiral is of opinion that he was most unfortunate in consuming so much time in obtaining information whether a national salute would be returned as to give a wrong impression of his motives, and that it was the Captain's manifest duty to obtain the information from officers of foreign vessels in port, or to send prompt explanations to the officers entitled to salutes. Consequently the Admiral has made known to the Captain his disapproval of his course. The Admiral further states that Captain Longenecker is now mentally deranged, as reported by his surgeon.

Since the receipt of the enclosed letter of the Admiral I have had several conversations with him on the subject, and

I

I learn that he thinks that there is not the best feeling on the part of the Russians towards the United States, and that we should avoid, if possible, giving the least excuse for any differences between the officers of the navies of the two countries. It was this feeling, doubtless, which prompted the Admiral to telegraph from Hongkong to Captain Wilde, Commander of the OREGON, at Yokohama, before knowing what had passed between the Russian Minister and myself, to seek an interview at once with the Russian Minister, express his regrets that such an unpleasant incident should have happened, and say to him that on the arrival of a Russian man-of-war in Japanese waters he (Wilde) would go with the OREGON and salute the Russian flag. On being informed by Captain Wilde of the Admiral's instructions, I requested the Captain to delay complying with his orders and await further instructions after the Admiral had been advised that the matter had been closed between the Russian Minister and myself and that we had referred the matter to our respective Commanders-in-Chief,--which was done.

While no doubt the Admiral is right in his conclusion that the Captain should have shown better judgement and obtained information from the officers of other vessels, and was too slow in making explanation, yet these were matters of discretion on his part and his failure to do so was no intended discourtesy to the Russian Vice Admiral, and I am still of opinion that, after the explanation had been made to the Russian Flag Lieutenant, and the earnest desire expressed that the Vice Admiral withdraw his request that his flag be not saluted the following morning, it would seem that any reasonable officer would have accepted the explanation and complied with

Captain's with the request. The Italian Rear Admiral, on the next morning, not only accepted and returned the salute of the NEW ORLEANS, but, as I hear from unofficial sources, visited the Russian Vice Admiral on that morning and endeavored to induce him to comply with Captain Longenecker's request.

Granted that Captain Longenecker erred in judgement, he certainly was not guilty of international discourtesy, as was the Vice Admiral in refusing to accept the Captain's explanation and to receive him on board his ship or to return his official visit.

It is now to be hoped that, in consequence of the mental derangement of Captain Longenecker, unfortunate and sad though it is, the unpleasant incident may be closed, as suggested by Rear Admiral Watson that it may be, by the initiative of the Russian Vice Admiral.

I have the honor to be,

Sir,

Your obedient servant,

H. C. Buck

Enclosure:

Rear Admiral Watson to Mr. Buck, April 13th, 1900, (Copy).

Enclosure with Mr.Buck's No.47 dated April 23, 1900, (Copy).

United States Naval Force on Asiatic Station.

FLAGSHIP BROOKLYN,

No.141-M. Yokohama, Japan, April 13th, 190

Sir:

1. I have the honor to acknowledge the receipt of your letter #389, dated March 8th, 1900, enclosing copies of correspondence between Baron Rosen, the Imperial Russian Minister in Tokio, and yourself, also of letter exchanged by you and Captain Longenecker, commanding U.S.S.NEW ORLEANS, the enclosures being numbered from 1 to 7 inclusive.

2. In thanking you for the opinion you express in this matter permit me to confirm your impression by stating my conviction that Captain Longenecker was actuated solely by an honest desire to comply with the requirements of international courtesy, as set forth in the Navy Regulations.

3. It is however most unfortunate that the means he adopted for securing necessary information were so inadequate and consumed such an inordinate amount of time, as to give a wrong impression of his motives.

4. It was his obvious course, when he had failed to get definite information from the Consul, either to consult the foreign vessels in port, or to send a prompt explanation of the case to the officers entitled to a salute, accounting for his delay.

5. Captain Longenecker has been informed by me of my disapproval of his course. Such excessive hesitation and tardiness on the part of an officer of his professional rank would be open to serious misinterpretation by a foreigner, unacquainted

unacquainted with the individual.

6. It is my painful duty to add that Captain Longnecker has this day been reported to me by his surgeon, as mentally deranged. I feel sure that if this fact is made known to the Russian Vice Admiral, it will invite on his part a request to consider the incident as closed.

Very respectfully,

(Signed) J.C.Watson,

Rear Admiral, U.S.Navy,

Commander-in-Chief,

U.S.Naval Force on Asiatic Station.

The Honorable

A.E.Buck,

Envoy Extraordinary and Minister Plenipotentiary

of the United States of America,

at Tokio.

UNITED STATES LEGATION,
TOKIO.

No. 420

DIPLOMATIC,

MAY 17 1900

BUREAU.

INDEX BUREAU RECD. 16 MAY 1900 DEPT. OF STATE

April 23, 1900.

Mr. Buck

to the Secretary of State.

Subject:

Navy Department's thanks for Murata rifle etc. have been conveyed to the Japanese Minister for War.

No. 420.

LEGATION OF THE UNITED STATES,

Tokyo, Japan, April 23, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

As directed by your Instruction No.277, dated the 19th ultimo, I have conveyed to Viscount Katsura, the Japanese Minister for War, the thanks of our Navy Department for his courtesy in presenting to Lieutenant Key, Naval Attaché of this Legation, a Murata rifle of the latest type with accoutrements and ammunition, which Lieutenant Key forwarded to that Department.

I have the honor to be,

Sir,

Your obedient servant,

E. Buck

UNITED STATES LEGATION,
TOKIO.

DIPLOMATIC,
MAY 17 1900
BUREAU.

No. 421

April 23, 1900.

INDEX BUREAU
REC'D.
16 MAY 1900
DEPT. OF STATE

Mr. Buck

to the Secretary of State.

Subject:

Acceptance by the Powers concerned of the United States Government's declarations regarding trade etc. in China has been communicated to Japan, etc.

No. 421

LEGATION OF THE UNITED STATES,

Tokyo, Japan, April 23, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to acknowledge the receipt of your Instruction No.278, of date the 20th ultimo. As directed thereby, I have transmitted to Viscount Aoki copies of the notes by which Great Britain, Germany, Russia, France, Japan, and Italy have become parties to the declarations of the United States Government looking to the maintenance of unhindered development of foreign trade, navigation, and industry in the Chinese Empire.

Enclosed herewith is a copy of my note to the Minister for Foreign Affairs in which I informed him that the Government of the United States now considers as final and definitive the assent to its declarations before given by the Government of Japan upon the condition of their acceptance by the other Powers concerned, since such acceptance has now become an accomplished fact.

I have the honor to be,

Sir,

Your obedient servant

E. E. Buck

Enclosure:

Mr. Buck to Count Aoki, No.197 dated April 20th, 1900, (Copy).

Enclosure with Mr. Buck's No. 42/ dated April 23, 1900.

No. 197. (Copy) LEGATION OF THE UNITED STATES,

Tokyo, April 20, 1900.

His Excellency

Viscount Aoki Siugo,

His Imperial Japanese Majesty's

Minister for Foreign Affairs.

Sir:

In compliance with instructions from my Government I have the honor to transmit to Your Excellency herewith copies of communications from Great Britain, Germany, Russia, France, Japan, and Italy in response to proposals made to those Powers by the United States Government, with the expressed desire to insure to the United States and all other nations perfect equality of treatment within the limits of the Chinese Empire for their trade and navigation, especially within the so-called "Spheres of Interest" claimed by certain European Powers in China.

In transmitting to Your Excellency the enclosed copies of communications, I have the honor to state that, all the Powers having accepted the proposals of the United States, which acceptance by them was made a condition precedent by His Imperial Majesty's Government, I am now directed to inform Your Excellency that the Government of the United States will therefore consider the assent given by Your Excellency's Government to the proposals submitted in my Note No. 176, of date December 20th, 1899, to be final and definitive, and also to express to Your Excellency the sincere gratification which the President of the United States feels at the successful termination

Enclosure with Mr. Buck's No. 42/ dated April 23, 1900.

No. 197. (Copy) LEGATION OF THE UNITED STATES,

Tokyo, April 20, 1900.

His Excellency

Viscount Aoki Siugo,

His Imperial Japanese Majesty's

Minister for Foreign Affairs.

Sir:

In compliance with instructions from my Government I have the honor to transmit to Your Excellency herewith copies of communications from Great Britain, Germany, Russia, France, Japan, and Italy in response to proposals made to those Powers by the United States Government, with the expressed desire to insure to the United States and all other nations perfect equality of treatment within the limits of the Chinese Empire for their trade and navigation, especially within the so-called "Spheres of Interest" claimed by certain European Powers in China.

In transmitting to Your Excellency the enclosed copies of communications, I have the honor to state that, all the Powers having accepted the proposals of the United States, which acceptance by them was made a condition precedent by His Imperial Majesty's Government, I am now directed to inform Your Excellency that the Government of the United States will therefore consider the assent given by Your Excellency's Government to the proposals submitted in my Note No. 176, of date December 20th, 1899, to be final and definitive, and also to express to Your Excellency the sincere gratification which the President of the United States feels at the successful termination

nation of the negotiations, in which he sees proof of the friendly spirit which animates the various Powers interested in the untrammeled development of commerce and industry in the Chinese Empire, and a source of vast benefits to the whole commercial world.

I avail myself of this occasion to renew to Your Excellency the assurances of my highest consideration.

(Signed) A.E.Buck.

Enclosures:

Lord Salisbury to Mr.Choate, November 30, 1899.

Mr.Jackson to Mr.Hay, telegram, December 4, 1899.

Count von Bulow to Mr.White, February 19, 1900.
with translation.

Count Muravieff to Mr.Tower, December 18, 1899,
with translation.

Count Aoki to Mr.Buck, December 26, 1899,
translation.

Marquis Visconti Venosta to Mr.Draper, January 7, 1900,
with translation.

File

UNITED STATES LEGATION,
TOKIO.

No. 422. April 23, 1900.



Mr. Buck

to the Secretary of State.

Subject:

Acknowledging Instruction No. 279, dated March 20, 1900, in re Mr. Woodward's right to a U.S. passport.

No. 422

LEGATION OF THE UNITED STATES,

Tokyo, Japan, April 23, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to acknowledge the receipt of your Instruction No.279, dated the 20th ultimo, on the subject of Mr.A.M.Tracy Woodward's application for a United States passport and the question of his being entitled to one, which I referred to the Department in my Dispatch No.404 dated February 21st last.

In further considering the matter I shall bear in mind the general principles set forth therein.

I have the honor to be,

Sir,

Your obedient servant,

E. V. Rusk

No. 423.

LEGATION OF THE UNITED STATES,

Tokyo, Japan, April 30, 1900.

INDEX BUREAU
REC'D.
26 MAY 1900
DEPT. OF STATE

Mr. Buck

to the Secretary of State.

Subject:

Acknowledging receipt of Instruction No. 281, of April 2, Congratulations of the President and of the Secretary of State upon Crown Prince's betrothal have been expressed.

No. 423. LEGATION OF THE UNITED STATES,

Tokyo, Japan, April 30, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

In compliance with your Instruction No. 2[illegible], dated the 2nd instant, I have expressed, through the Minister for Foreign Affairs, the congratulations of the President of the United States and of yourself upon the betrothal of the Crown Prince of Japan to the Princess Sadako, and your best wishes for their future happiness.

I have the honor to be,

Sir,

Your obedient servant,

W. W. Rockhill

ASSISTANT SECRETARY
JUN 4 1900
DEPARTMENT OF STATE.

No. 424.

LEGATION OF THE UNITED STATES.

Tokyo, Japan, May 9, 1900.

INDEX BUREAU
REC'D
4 JUN 1900
DEPT. OF STATE

DIPLOMATIC
AUG 16 1900
BUREAU.

Mr. Buck

to the Secretary of State.

Subject:

Some missionaries' claim for exemption from income tax.

No. 424.

LEGATION OF THE UNITED STATES,

Tokyo, Japan, May 9, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

As a matter of some interest I have the honor to enclose herewith a copy of a communication from Rev. James W. Doughty, an American missionary, together with a copy of my reply thereto, upon the subject of payment of income tax by our missionaries in Japan. I also enclose copies of instructions of the Revenue Officials of Yokahama concerning payment of income tax, published in the Japan Mail on the 18th ultimo.

There has been much inquiry from missionaries concerning this subject. Some of them are of the opinion that, because their incomes are derived from the United States in the form of salary for mission work, a proper construction of the provisions of law in respect to income tax would exempt them from that tax, while others take the view that a reasonable interpretation of the law makes salaries of missionaries subject to tax, and that, even if, through any technicality, the payment of such tax could be avoided, it would be unwise to make serious opposition to payment, because, the irritation of the Japanese officials, whose friendship it is important to cultivate in all proper ways, that a contest would naturally cause, might result in injury to the successful prosecution of their work.

After

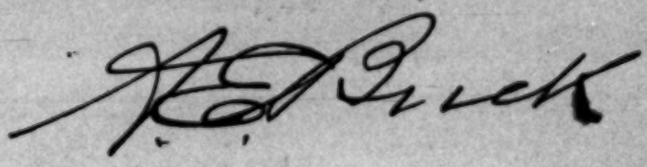
After a careful examination of the law, I see no reasonable interpretation that will warrant objection to pay the tax; and bringing the question into the courts, as some have proposed; and I have uniformly advised payment on the grounds set out in my reply to Mr.Doughty herewith.

In closing it may be proper to add that there is no discrimination against foreign missionaries complained of or made. Buddhist and Shintō priests are, I am told, also subject to tax on their incomes, the only question raised being whether incomes received by missionaries from abroad should be taxed as are incomes derived from local sources.

I have the honor to be,

Sir,

Your obedient servant,



Enclosures:

1. Mr.Doughty to Mr.Buck.
2. Mr.Buck to MR.Doughty.
3. Instructions of Yokahama Revenue Officials, in duplicate.

Enclosure No.1 with MR. Buck's No. 424 of May 9, 1900.
(Copy)

Hiroshima, April 30, 1900.

Hon. A.E.Buck

Envoy Extraordinary and Minister Plenipotentiary,

Tokyo, Japan.

Dear Sir:

I am sorry to trouble you but I am uncertain as to the matter income tax. I understand that you have stated that you think the missionaries come under the law. I have been reading over the law and came across the following passage:

5. Although all incomes realized from property, trades, businesses, or occupations in places where the income tax law is in force must be reported, the incomes falling under any of the following heads need not be reported, as they are not taxable incomes:

3. Incomes realized from property, trade, business , or occupations in a foreign country, or in places where the income tax law is not in force.

The above I observe is not the law itself, but instructions issued as explanation of the law, and was published in the Japan Mail of April 14th, and also in a recent issue of the Kobe Chronicle. I presume you have seen the above, but if I had not heard that you think we will have to pay the tax I should have assumed that the above exempted us. If not too much trouble will you kindly let me know why you think we are not exempt under the above instruction.

Yours sincerely,

(Signed) Jas.W.Doughty.

Copy. Enclosure No 2 with Mr Bucks No 424, May 9, 1900

United States Legation,

Tokyo, Japan, May 7, 1900.

Rev. Jas, W. Doughty,

Hiroshima.-

Dear Sir,

I have to acknowledge the receipt of your letter of the 30th ultimo in which you express the opinion that missionaries should be exempted from the income tax under the instructions issued by the Revenue Officials of Yokohama, as reported in the "Japan Mail" of April 14th, and requesting me to let you know why I think differently.

The portion of the Regulations referred to quoted by you reads as follows:

"8.- --------- Incomes falling under any of the following heads need not be reported as they are not taxable incomes:-
" 8.- Incomes realized from property, trade, businesses, or occupations in a foreign country or in places where ~~ax xxx~~ the income tax law is not in force ".

I fail to see how the above sections apply in any way to a missionary laboring in Japan. The obvious and only possible meaning of the instruction is that "incomes realized from property, trade, etc, in a foreign country (America, Europe, etc) "or in places where the income tax law is not in force (Formosa, the LooChoo and Bonin Islands)" are not taxable incomes. But the occupation of the missionaries in question is <u>in Japan</u> where the income tax law <u>is</u> in force, and they therefore are included under the first paragraph of the instructions referre to, which reads in part as follows:

" Any person who has in any part of this country, where the income tax law is in force, a residence or place of abode or who resides in a fixed place for one year or more, and has an income of 300 <u>yen</u> or more per annum, is under obligation to pay income tax".

Under paragrapg 7, section 8, income derived from a business or profession is defined to mean "income derived from "commercial, industrial, and other businesses or professions "or scientific and technical occupations and <u>from all classes "of labor not otherwise enumerated</u>" which certainly is comprehensive enough to include the missionary profession; and much as I wish that the missionaries in Japan may be relieved of all possible financial burdens, I can see no ground, under my own interpretation of the law or that of the Japanese Government furnished me by the Finance Department at my request,- which coincides with my opinion --, for a claim by the missionaries for exemption from the income tax law. Moreover it is my opinion that, even if there were a technical ground for such a claim,- which I cannot find--, it would be better as a matter of policy for the missionaries to pay the tax than to make objections that might prejudice their work in the eyes of the Japanese officials under whose protection, in a large measure, they now are.

By section 5 of paragraph 5 of the regulations quoted "travelling expenses, educational funds, etc," are declared to be exempt from the income tax. Accordingly it is my opinion that special allowances made by the missionary Boards for the purposes mentioned, distinct from the salary, need not be included in the report of income made to the officials, though I am not aware what interpretation the Japanese authorities put upon that section.

Very sincerely yours,

[signature] A. E. Buck

Enclosure No 3, with Mr Bucks' No 424 of May 9th, 1900.

The Japan Daily Mail.

YOKOHAMA, FRIDAY, APRIL 13, 1900.

THE INCOME TAX.

We are asked by the Revenue Officials of Yokohama to bring to the notice of the foreign public, the undermentioned facts concerning the payment of Income Tax, reports concerning which should be made this month :—

FOR INDIVIDUALS.

All individuals who are under obligation to pay income tax according to the provisions of Art. VIII. of the Income Tax Law, issued as Law No. 17, in Feb., 1899 shall forward their report to the Government in April every year. According to this law incomes are divided into three classes, namely (1) Incomes of juridical persons : (2) Interest on public bonds or companies' debentures payable in places where the Income Tax Law is in force ; and (3) Incomes of individuals. Incomes of the third class are calculated on estimates based on the actual circumstances of each taxpayer in April every year. Any person who has in any part of this country, where the Income Tax Law is in force, a residence, or place of abode, or who resides in a fixed place for one year or more, and has an income of 300 *yen* or more per annum, is under obligation to pay income tax. Persons residing outside the districts where the Income Tax Law is in force, who have property, trade, business or occupation, in a place where the said Law is in force, are under obligation to pay income tax in respect of the income derived therefrom.

2.—With regard to incomes mentioned in clauses 1 to 7 in paragraph 7, the tax is directly levied on the estimates of their annual receipts ; and the cost of living, all other household expenditure, etc., cannot be deducted therefrom. If there has been a difference between the estimate and the actual income, and the latter has sustained a diminution amounting to one-fourth or more, the person concerned may report the fact to the Government on or before January 31st of the following year and apply for the revision of his income.

3.—The incomes derived from business or professions, house rents, ground rents, or other property are based on the estimated annual amount which remains over after the necessary expenditure has been deducted from the total receipts. The term "necessary expenditure" is only applicable to that which is directly necessary for the carrying on of a particular business ; as, for instance, the original cost of goods laid in as stock ; the cost of raw materials ; the cost of repairs to, or charges for, hiring places and things ; public imposts upon places, things, or businesses ; employees' wages ; and other expenses necessary for the earning of incomes. In case of places or things used for business purposes being also used for household purposes, no portion of the cost of repairing or of charges for hiring them, or of public imposts or other expenses on the same, can be deducted in respect of such use for household purposes from the amount available for taxation. For the same reason the wages of servants who are employed for both business and household purposes, entertainment expenses disbursed for business as well as social purposes, and interest on loans raised other than for business purposes, must not be deducted.

4.—The incomes of the head of a family and of members of his family who live with him, or of two or more members of a family who live in the same house, shall be reckoned together, and if the total reaches 300 yen or more per year they are under obligation to pay income tax. In such cases the reports of their incomes shall be made out separately, and on the margin of the reports the words "Living with so-and-so" shall be written.

5.—Although all incomes realised from property, trades, businesses, or occupations in places where the Income Tax Law is in force, must be reported, the incomes falling under any of the following heads need not be reported, as they are not taxable incomes :—

1. Occasional incomes which do not belong to undertakings conducted with the object of profit. An income here mentioned means one which comes into one's possession unexpectedly, such as money left by the dead, or rewards or remuneration and the like which are given without any previous understanding.
   The provision is not applicable to fees or remuneration received by professional men such as doctors, lawyers, translators, interpreters, etc., as the result of a tacit agreement or according to prevailing usage.
2. Dividends receivable from a juridical person upon whom income tax has already been imposed under the Income Tax Law.
3. Incomes realised from property, trade, businesses, or occupations in a foreign country, or in places where the Income Tax Law is not in force. [Formosa, Okinawa-ken, (the Luchu islands). Ogasawara-jima, (Bonin islands), and the seven islands of Idzu comprise the districts where the law is not in force].
4. Interest on public bonds or companies' debenture which has been paid in a place where the Income Tax Law is in force—that is, interest on which income tax of the second-class has already been levied.
5. Travelling expenses, educational funds, and legal allowances for support granted to widows and orphans, etc.
6. Salaries of military and naval men on active service.
7. Allowances for support granted to widows and orphans, etc., and pensions to wounded or invalids.

6.—The reports on the incomes of individuals shall first be examined by the competent Taxation Office and then they shall be submitted to the discussion of the Income Investigation Committee, elected from among the payers of income tax in the locality, and the Director of the competent Revenue Administration Bureau shall decide upon the amount of tax to be levied on each payer according to the resolutions of the Investigation Committee. Taxpayers shall be informed of the amount of tax to be levied on them before the process of collection is commenced, but the decision of the authorities will not necessarily be in accordance with the reports furnished by them. According to the results of investigation the amount of tax not based on the reports may be notified to them ; and even to persons who have not presented any reports at all, notice to pay a certain amount of tax may be sent by the authorities, as the result of their investigation that they enjoy an income justifying the imposition of that amount of tax. If the taxpayers object to the amount of tax notified to them, they may apply for an enquiry into their income, stating the reasons for their dissatisfaction, or they may lodge an appeal or institute administrative litigation against the decision. In taking these measures, however, considerable trouble would be unavoidable. Moreover, the cases where a change in the amount of income are allowed are limited to those caused either by the result of an enquiry, of the examination into an appeal, or of an administrative litigation ; or to cases where a revision of the amount of income is required owing to a diminution of the income amounting to one-fourth or more. For these reasons each taxpayer should be careful to make a correct statement.

7.—The following is a definition of the principal items to be reported:—

1. Salaries or wages—By this is meant the remuneration which any person receives, for occupation, labour, etc., from Government, public offices, companies, shops, factories, and other corporations or individuals, either according to fixed rules or by a periodical contract, etc.
2. Special allowances—By this is meant the rewards which any person receives for labour from others under the name of either monthly allowances or entertainment expenses, etc.
3. Rewards paid in instalments—By this is meant the rewards which any person receives as share for labour, according either to a certain contract or a periodical resolution, etc., from companies, shops, and other corporations or individuals when the accounts of profit and loss are made out, and at other similar times.
4. Interest on money loaned or deposited not in the course of business—By this is meant interest on money loaned by persons who do not make the business of money-lending their occupation; interest on money deposited not for the purpose of business, that is interest on money loaned or deposited by ordinary individuals other than business men, such as interest on money deposited in banks, post offices, and other places for the purpose of gain. As a matter of course interest on money loaned by pawnbrokers and others whose business it is to loan money, as well as interest derived from money deposited in the course of or owing to the nature of business, is to be calculated, and reported as business income.
5. Dividends received from juridical persons upon whom no income tax has been levied under the Income Tax Law—By this is meant incomes from juridical persons in a foreign country or in a place in this country where the Income Tax Law is not in force, or from juridical persons whose business is not conducted with the object of profit and who are exempted from taxation.
6. Interest on public bonds or companies' debentures, which is not paid in places where the Income Tax Law is in force—By this is meant interest on public bonds or companies' debentures, which is paid in a foreign country or in a place in this country where the Income Tax Law is not in force, and is received by transference in a place where the Law is in force.
7. Annual allowances, annuities, and pensions—Mone which is given to members of an Assembly elected either by the Government or the people for their labour and expenses is called annual allowance; money which is given to persons who have rendered meritorious services to the nation is called annuity; and money which is given to civil officials and military and naval officers, and others, according to fixed rules, in recognition of services rendered by them, is called pension.
8. Income derived from a business or profession—By this is meant income derived from commercial, industrial, and other businesses or professions or scientific and technical occupations and from all classes of labour not otherwise enumerated.
9. Income derived from house rents.—By this is meant income derived from the letting of houses.
10. Income derived from ground rents.—By this is meant income derived from the letting of land to others by persons who have leased it from the Government or from others.
11. Income derived from properties other than the two items above mentioned.—By this is meant income derived from properties other than houses and land, that is from ships, boats, vehicles, horses, and other properties.

8.—Entries in the report shall be made in compliance with the principal points mentioned in the above para graphs, and the report so entered shall be forwarded to the Yokohama Taxation Office (Tobe Rokuchome) within the legal period (April). Anyone who wishes for further information or explanation may obtain it by applying to the Yokohama Taxation Office at any time. For more details persons are referred to an English translation of the Tax Laws of Japan, published by the Yokohama Revenue Administration Bureau.

FOR JURIDICAL PERSONS.

1.—The statement of accounts is to be presented to the Government each business year by juridical persons who are under obligation to pay income tax according to the provisions of Art. 7 of the Income Tax Law (No. 17), promulgated in Feb., 1899. By the term "juridical persons" is meant corporations composed of several persons for the purpose of carrying on commercial business and registered in compliance with the provisions of laws and ordinances as joint-stock companies, limited partnerships, or ordinary partnerships. By the term "business year" is understood the fiscal year in which the account of profit and loss of respective companies is made up; as, for instance, the period from January to June is fixed as the first half-year and July to December the second half-year; or the whole calendar year, or from April to March the following year, that is, the period in which the account of profit and loss of respective companies is made up is regarded as a fiscal year.

2.—With regard to the third-class incomes mentioned in the Income Tax Law, that is, incomes of individuals, the kind and amount of income is to be reported to the Government by each tax-payer in April every year. But as to the income of juridical persons there is no fixed period during which a report should be made, as the period of closing accounts differs according to the statutes of each company or partnership, as already mentioned. In the case of joint-stock companies a statement of accounts of profit and loss should be presented to the competent Taxation Office within seven days after the passing of accounts at any ordinary general meeting of shareholders, and in the case of limited partnerships or ordinary partnerships the same should be presented to the said office within seven days after the approval of accounts at a meeting of partners. When a statement of accounts is presented it should be accompanied by a copy of the statutes of the company, of the business report presented to the shareholders or partners, and of the resolutions passed at the meeting.

3.—In the case of first-class incomes, that is incomes of juridical persons, being different from those of individuals which are based on estimates, whereas those of juridical persons are based on actual income, should the business year comprise the period in which the Revised Treaties had not become operative and that in which they became operative, such juridical persons are required to forward a statement of accounts to the Taxation Office on the present occasion.

4.—The income of a juridical person is calculated on the balance remaining after deducting total expenditures or gross losses from the total receipts or gross profits in each fiscal year. In case of there being a balance carried over from the accounts of the previous year on which the tax has already been imposed, and, in the case of an insurance company, should there be an amount reserved to meet liability for insurance, such amount may be deducted. If among the profits, there is a dividend which has been received from a juridical person on whom tax has already been imposed, or interest on public bonds or companies' debentures, which has been paid in those parts of Japan where the Income Tax Law is in force, that is where the second-class income tax has already been imposed, such amount may also be deducted.

5.—Amounts of money given to members or employees of a company as rewards at a fixed period or occasionally, irrespective of the profit or loss of the company, according to the statutes of the same, may be deducted from the profit side in preparing a statement of accounts. In case of defraying rewards from a balance remaining after deducting all the business expenditures as total loss from the total profits according to a resolution at a general meeting of shareholders or partners, such amount of money shall not be deducted, or, in other words, all the balance shall be calculated as net profit.

6.—When a reserve is made for the purpose of an extension of business, of the purchase of property, of the redemption or depreciation of machinery, furniture, etc., if such reserve is defrayed out of the net profit after deducting the total loss from the total profit, it shall not be deducted.

7.—A juridical person who has a head office in any part of Japan, where the Income Tax Law is in force, and derives income from his trade, business, property, or occupation in a foreign country, must forward to the Government a statement of accounts, adding it to his income in Japan. However, in case the office in this country is merely a branch of a head office in a foreign country, a statement of accounts of profit and loss only in respect of business or property in any part of this country, where the Income Tax Law is in force, need be presented.

8.—With regard to the income of a juridical person the competent Taxation Office will make investigation into any statement of accounts presented, and the Director of the competent Revenue Administration Bureau will decide upon the amount of tax to be levied. The process for the collection of the tax shall be adopted after each tax-payer has been notified of the amount of tax to be collected. Sometimes it may be possible that the amount of income does not agree with that of the statement of accounts presented, as the result of investigations made by the Government. If the tax-payer thus notified is not satisfied with the amount of income decided upon by the Government he may apply for an enquiry by stating the reasons of his objection, or may make an appeal, or institute an administrative litigation. In doing these, however, there will be considerable trouble inevitably involved, and therefore it is required that any juridical persons, in presenting a statement of accounts, should bestow careful attention on its compilation and ensure its accuracy.

9.—Although persons who derive income from property, business, or occupation in any part of this country, where the Income Tax Law is in force, are under obligation to pay tax, income falling under any of the following heads is not liable to taxation, and therefore no report is required as to it :—

1. Income of juridical persons, the business of whom is not conducted with the object of profit.
2. Occasional incomes which do not belong to undertakings conducted with the object of profit.
3. Income realised from property, or trade, business, or occupation in a foreign country, or in places in Japan where this law is not in force (Formosa, Okinawa-ken, or Luchu islands, Ogasawara-jima, or the Bonin islands, and the seven islands of Idzu). But this provision is not applicable to the income of a juridical person whose head office is in a place where the Income Tax Law is in force.

10.—Entries in the statement shall be made in compliance with the principal points mentioned in the above paragraphs, and the report so entered shall be forwarded to the Yokohama Taxation Office (Tobe Rokuchome), whtiin the legal period. Anyone who wishes for further information or explanation may obtain the same by applying to the Yokohama Taxation Office at any time. For further details persons are referred to an English translation of the Tax Laws of Japan, published by the Yokohama Revenue Administration Bureau.

ADDITIONAL REMARKS.

If the members or partners of a juridical person upon whom first class income tax has been imposed have any other income coming under the third class, they should as a matter of course forward a report of the income as the income of an individual.

Special attention is called to this matter so as to avoid any possible misunderstanding on the subject.

Duplicate

Enclosure № 3 with Mr Buck's № 424, of May 9, 1900.

The Japan Daily Mail.

YOKOHAMA, FRIDAY, APRIL 13, 1900.

THE INCOME TAX.

We are asked by the Revenue Officials of Yokohama to bring to the notice of the foreign public, the undermentioned facts concerning the payment of Income Tax, reports concerning which should be made this month :—

FOR INDIVIDUALS.

All individuals who are under obligation to pay income tax according to the provisions of Art. VIII. of the Income Tax Law, issued as Law No. 17, in Feb., 1899 shall forward their report to the Government in April every year. According to this law incomes are divided into three classes, namely (1) Incomes of juridical persons : (2) Interest on public bonds or companies' debentures payable in places where the Income Tax Law is in force ; and (3) Incomes of individuals. Incomes of the third class are calculated on estimates based on the actual circumstances of each taxpayer in April every year. Any person who has in any part of this country, where the Income Tax Law is in force, a residence, or place of abode, or who resides in a fixed place for one year or more, and has an income of 300 *yen* or more per annum, is under obligation to pay income tax. Persons residing outside the districts where the Income Tax Law is in force, who have property, trade, business or occupation, in a place where the said Law is in force, are under obligation to pay income tax in respect of the income derived therefrom.

2.—With regard to incomes mentioned in clauses 1 to 7 in paragraph 7, the tax is directly levied on the estimates of their annual receipts ; and the cost of living, all other household expenditure, etc., cannot be deducted therefrom. If there has been a difference between the estimate and the actual income, and the latter has sustained a diminution amounting to one-fourth or more, the person concerned may report the fact to the Government on or before January 31st of the following year and apply for the revision of his income.

3.—The incomes derived from business or professions, house rents, ground rents, or other property are based on the estimated annual amount which remains over after the necessary expenditure has been deducted from the total receipts. The term "necessary expenditure" is only applicable to that which is directly necessary for the carrying on of a particular business ; as, for instance, the original cost of goods laid in as stock ; the cost of raw materials ; the cost of repairs to, or charges for, hiring places and things ; public imposts upon places, things, or businesses ; employees' wages ; and other expenses necessary for the earning of incomes. In case of places or things used for business purposes being also used for household purposes, no portion of the cost of repairing or of charges for hiring them, or of public imposts or other expenses on the same, can be deducted in respect of such use for household purposes from the amount available for taxation. For the same reason the wages of servants who are employed for both business and household purposes, entertainment expenses disbursed for business as well as social purposes, and interest on loans raised other than for business purposes, must not be deducted.

4.—The incomes of the head of a family and of members of his family who live with him, or of two or more members of a family who live in the same house, shall be reckoned together, and if the total reaches 300 yen or more per year they are under obligation to pay income tax. In such cases the reports of their incomes shall be made out separately, and on the margin of the reports the words "Living with so-and-so" shall be written.

5.—Although all incomes realised from property, trades, businesses, or occupations in places where the Income Tax Law is in force, must be reported, the incomes falling under any of the following heads need not be reported, as they are not taxable incomes :—

1. Occasional incomes which do not belong to undertakings conducted with the object of profit. An income here mentioned means one which comes into one's possession unexpectedly, such as money left by the dead, or rewards or remuneration and the like which are given without any previous understanding.
   The provision is not applicable to fees or remuneration received by professional men such as doctors, lawyers, translators, interpreters, etc., as the result of a tacit agreement or according to prevailing usage.
2. Dividends receivable from a juridical person upon whom income tax has already been imposed under the Income Tax Law.
3. Incomes realised from property, trade, businesses, or occupations in a foreign country, or in places where the Income Tax Law is not in force, [Formosa, Okinawa-ken, (the Luchu islands), Ogasawara-jima, (Bonin islands), and the seven islands of Idzu comprise the districts where the law is not in force].
4. Interest on public bonds or companies' debenture which has been paid in a place where the Income Tax Law is in force—that is, interest on which income tax of the second-class has already been levied.
5. Travelling expenses, educational funds, and legal allowances for support granted to widows and orphans, etc.
6. Salaries of military and naval men on active service.
7. Allowances for support granted to widows and orphans, etc., and pensions to wounded or invalids.

6.—The reports on the incomes of individuals shall first be examined by the competent Taxation Office and then they shall be submitted to the discussion of the Income Investigation Committee, elected from among the payers of income tax in the locality, and the Director of the competent Revenue Administration Bureau shall decide upon the amount of tax to be levied on each payer according to the resolutions of the Investigation Committee. Taxpayers shall be informed of the amount of tax to be levied on them before the process of collection is commenced, but the decision of the authorities will not necessarily be in accordance with the reports furnished by them. According to the results of investigation the amount of tax not based on the reports may be notified to them ; and even to persons who have not presented any reports at all, notice to pay a certain amount of tax may be sent by the authorities, as the result of their investigation that they enjoy an income justifying the imposition of that amount of tax. If the taxpayers object to the amount of tax notified to them, they may apply for an enquiry into their income, stating the reasons for their dissatisfaction, or they may lodge an appeal or institute administrative litigation against the decision. In taking these measures, however, considerable trouble would be unavoidable. Moreover, the cases where a change in the amount of income are allowed are limited to those caused either by the result of an enquiry, of the examination into an appeal, or of an administrative litigation ; or to cases where a revision of the amount of income is required owing to a diminution of the income amounting to one-fourth or more. For these reasons each taxpayer should be careful to make a correct statement.

7.—The following is a definition of the principal items to be reported:—

1. Salaries or wages—By this is meant the remuneration which any person receives, for occupation, labour, etc., from Government, public offices, companies, shops, factories, and other corporations or individuals, either according to fixed rules or by a periodical contract, etc.
2. Special allowances—By this is meant the rewards which any person receives for labour from others under the name of either monthly allowances or entertainment expenses, etc.
3. Rewards paid in instalments—By this is meant the rewards which any person receives as share for labour, according either to a certain contract or a periodical resolution, etc., from companies, shops, and other corporations or individuals when the accounts of profit and loss are made out, and at other similar times.
4. Interest on money loaned or deposited not in the course of business—By this is meant interest on money loaned by persons who do not make the business of money-lending their occupation; interest on money deposited not for the purpose of business, that is interest on money loaned or deposited by ordinary individuals other than business men, such as interest on money deposited in banks, post offices, and other places for the purpose of gain. As a matter of course interest on money loaned by pawnbrokers and others whose business it is to loan money, as well as interest derived from money deposited in the course of or owing to the nature of business, is to be calculated, and reported as business income.
5. Dividends received from juridical persons upon whom no income tax has been levied under the Income Tax Law—By this is meant incomes from juridical persons in a foreign country or in a place in this country where the Income Tax Law is not in force, or from juridical persons whose business is not conducted with the object of profit and who are exempted from taxation.
6. Interest on public bonds or companies' debentures, which is not paid in places where the Income Tax Law is in force—By this is meant interest on public bonds or companies' debentures, which is paid in a foreign country or in a place in this country where the Income Tax Law is not in force, and is received by transference in a place where the Law is in force.
7. Annual allowances, annuities, and pensions—Mone which is given to members of an Assembly elected either by the Government or the people for their labour and expenses is called annual allowance; money which is given to persons who have rendered meritorious services to the nation is called annuity; and money which is given to civil officials and military and naval officers, and others, according to fixed rules, in recognition of services rendered by them, is called pension.
8. Income derived from a business or profession—By this is meant income derived from commercial, industrial, and other businesses or professions or scientific and technical occupations and from all classes of labour not otherwise enumerated.
9. Income derived from house rents.—By this is meant income derived from the letting of houses.
10. Income derived from ground rents.—By this is meant income derived from the letting of land to others by persons who have leased it from the Government or from others.
11. Income derived from properties other than the two items above mentioned.—By this is meant income derived from properties other than houses and land, that is from ships, boats, vehicles, horses, and other properties.

8.—Entries in the report shall be made in compliance with the principal points mentioned in the above para graphs, and the report so entered shall be forwarded to the Yokohama Taxation Office (Tobe Rokuchome) within the legal period (April). Anyone who wishes for further information or explanation may obtain it by applying to the Yokohama Taxation Office at any time. For more details persons are referred to an English translation of the Tax Laws of Japan, published by the Yokohama Revenue Administration Bureau.

FOR JURIDICAL PERSONS.

1.—The statement of accounts is to be presented to the Government each business year by juridical persons who are under obligation to pay income tax according to the provisions of Art. 7 of the Income Tax Law (No. 17), promulgated in Feb., 1899. By the term "juridical persons" is meant corporations composed of several persons for the purpose of carrying on commercial business and registered in compliance with the provisions of laws and ordinances as joint-stock companies, limited partnerships, or ordinary partnerships. By the term "business year" is understood the fiscal year in which the account of profit and loss of respective companies is made up; as, for instance, the period from January to June is fixed as the first half-year and July to December the second half-year; or the whole calendar year, or from April to March the following year, that is, the period in which the account of profit and loss of respective companies is made up is regarded as a fiscal year.

2.—With regard to the third-class incomes mentioned in the Income Tax Law, that is, incomes of individuals, the kind and amount of income is to be reported to the Government by each tax-payer in April every year. But as to the income of juridical persons there is no fixed period during which a report should be made, as the period of closing accounts differs according to the statutes of each company or partnership, as already mentioned. In the case of joint-stock companies a statement of accounts of profit and loss should be presented to the competent Taxation Office within seven days after the passing of accounts at any ordinary general meeting of shareholders, and in the case of limited partnerships or ordinary partnerships the same should be presented to the said office within seven days after the approval of accounts at a meeting of partners. When a statement of accounts is presented it should be accompanied by a copy of the statutes of the company, of the business report presented to the shareholders or partners, and of the resolutions passed at the meeting.

3.—In the case of first-class incomes, that is incomes of juridical persons, being different from those of individuals which are based on estimates, whereas those of juridical persons are based on actual income, should the business year comprise the period in which the Revised Treaties had not become operative and that in which they became operative, such juridical persons are required to forward a statement of accounts to the Taxation Office on the present occasion.

4.—The income of a juridical person is calculated on the balance remaining after deducting total expenditures or gross losses from the total receipts or gross profits in each fiscal year. In case of there being a balance carried over from the accounts of the previous year on which the tax has already been imposed, and, in the case of an insurance company, should there be an amount reserved to meet liability for insurance, such amount may be deducted. If among the profits, there is a dividend which has been received from a juridical person on whom tax has already been imposed, or interest on public bonds or companies' debentures, which has been paid in those parts of Japan where the Income Tax Law is in force, that is where the second-class income tax has already been imposed, such amount may also be deducted.

5.—Amounts of money given to members or employees of a company as rewards at a fixed period or occasionally, irrespective of the profit or loss of the company, according to the statutes of the same, may be deducted from the profit side in preparing a statement of accounts. In case of defraying rewards from a balance remaining after deducting all the business expenditures as total loss from the total profits according to a resolution at a general meeting of shareholders or partners, such amount of money shall not be deducted, or, in other words, all the balance shall be calculated as net profit.

6.—When a reserve is made for the purpose of an extension of business, of the purchase of property, of the redemption or depreciation of machinery, furniture, etc., if such reserve is defrayed out of the net profit after deducting the total loss from the total profit, it shall not be deducted.

7.—A juridical person who has a head office in any part of Japan, where the Income Tax Law is in force, and derives income from his trade, business, property, or occupation in a foreign country, must forward to the Government a statement of accounts, adding it to his income in Japan. However, in case the office in this country is merely a branch of a head office in a foreign country, a statement of accounts of profit and loss only in respect of business or property in any part of this country, where the Income Tax Law is in force, need be presented.

8.—With regard to the income of a juridical person the competent Taxation Office will make investigation into any statement of accounts presented, and the Director of the competent Revenue Administration Bureau will decide upon the amount of tax to be levied. The process for the collection of the tax shall be adopted after each tax-payer has been notified of the amount of tax to be collected. Sometimes it may be possible that the amount of income does not agree with that of the statement of accounts presented, as the result of investigations made by the Government. If the tax-payer thus notified is not satisfied with the amount of income decided upon by the Government he may apply for an enquiry by stating the reasons of his objection, or may make an appeal, or institute an administrative litigation. In doing these, however, there will be considerable trouble inevitably involved, and therefore it is required that any juridical persons, in presenting a statement of accounts, should bestow careful attention on its compilation and ensure its accuracy.

9.—Although persons who derive income from property, business, or occupation in any part of this country, where the Income Tax Law is in force, are under obligation to pay tax, income falling under any of the following heads is not liable to taxation, and therefore no report is required as to it :—

1. Income of juridical persons, the business of whom is not conducted with the object of profit.
2. Occasional incomes which do not belong to undertakings conducted with the object of profit.
3. Income realised from property, or trade, business, or occupation in a foreign country, or in places in Japan where this law is not in force (Formosa, Okinawa-ken, or Luchu islands, Ogasawara-jima, or the Bonin islands, and the seven islands of Idzu). But this provision is not applicable to the income of a juridical person whose head office is in a place where the Income Tax Law is in force,

10.—Entries in the statement shall be made in compliance with the principal points mentioned in the above paragraphs, and the report so entered shall be forwarded to the Yokohama Taxation Office (Tobe Rokuchome), whtiin the legal period. Anyone who wishes for further information or explanation may obtain the same by applying to the Yokohama Taxation Office at any time. For further details persons are referred to an English translation of the Tax Laws of Japan, published by the Yokohama Revenue Administration Bureau.

ADDITIONAL REMARKS.

If the members or partners of a juridical person upon whom first class income tax has been imposed have any other income coming under the third class, they should as a matter of course forward a report of the income as the income of an individual.

Special attention is called to this matter so as to avoid any possible misunderstanding on the subject.

JUN 23 1900

Bureau of Accts

No. —.

LEGATION OF THE UNITED STATES,

Tokyo, Japan, May 9, 1900.

INDEX BUREAU
REC'D.
4 JUN 1900
DEPT. OF STATE

acknd June 23

Bureau of Accounts,
JUN 21 1900
Ordered Sent.

Mr. Buck

to the Secretary of State.

Subject:

Requesting renewal of newspaper subscriptions.

No.—.

LEGATION OF THE UNITED STATES,

Tokio, Japan, May 9, 1900.

Honorable John Hay,

Secretary of State,

Washington, D.C.-

Sir:

I have the honor to request that the subscriptions for this Legation to the "New York Tribune" and the "San Francisco Chronicle", which expire on June 30th next, may be renewed for the ensuing fiscal year.

I have the honor to be,

Sir,

Your obedient servant,

W. E. Buck

DIPLOMATIC,
JUN 4 1900
BUREAU

No. ~.

LEGATION OF THE UNITED STATES.

Tokyo, Japan, May 11, 1900.

INDEX BUREAU
REC'D.
4 JUN 1900
DEPT. OF STATE

To Dir. of Census
June 5 C

Mr. Buck

to the Secretary of State.

Subject:

Information desired by the Census Office.

No. —.

LEGATION OF THE UNITED STATES,

Tokyo, Japan, May 11, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to acknowledge the receipt of your circular instruction dated the 30th March, by which I am directed to forward to the Department such reports as have been published by the Japanese Government relative to vital statistics, agriculture, and commerce, which are desired for use in compiling the Twelfth Census of the United States, the scope of which includes those subjects.

As stated in my unnumbered despatch of date February 23rd in reply to the Department's circular of January 20th, the Statistical Bureau of the Japanese Government have been preparing a complete set of the reports desired by the Census Office, with which it is in direct communication. I suppose said reports have been sent by now.

Herewith, under separate cover, I have the honor to forward three copies of the Fourteenth Résumé Statistique de l'Empire du Japon, which has just appeared, the only official report published in other than Japanese language. The contents of the Résumé is gleaned from the large volume printed only in Japanese. It appears to contain information as to vital statistics, agriculture, and manufactures, and, I trust, with what the Census Office will have received direct from the Bureau here, will be sufficiently full.

I have the honor to be,

Sir

Your obedient servant



DIPLOMATIC,
JUN 5 1900
BUREAU.

ASSISTANT SECRETARY
JUN 4 1900
DEPARTMENT OF STATE.

No. 425.

INDEX BUREAU
REC'D.
4 JUN 1900
DEPT. OF STATE

LEGATION OF THE UNITED STATES,

Tokyo, Japan, May 11, 1900.

Tokyo and
Jun 8 cy
Jun 6 c

Mr. Buck

to the Secretary of State.

Subject:

Information about Kobe plague desired for Surgeon-General of Marine Hospital Service.

No.425. LEGATION OF THE UNITED STATES,

Tokyo, Japan, May 11, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

Referring to your Instruction No.275, dated March 13th, calling for information as to the Japanese authorities' methods in the suppression of two recent epidemics of plague in Kobe, as set forth in a letter from the Treasury Department, copy of which accompanied that instruction, I have the honor to say that I am informed by the Minister for Foreign Affairs that no such official reports have yet been compiled, but that they will be sent me upon completion.

In view of possible long delay in the issuance of the official reports mentioned above, perhaps, meanwhile, Dr. Eldridge, Acting Assistant Surgeon, Marine Hospital Service, U.S.Sanitary Inspector at Yokohama, could more promptly furnish the Surgeon-General of the Marine Hospital Service with some such information as he desires, if he has not already done so.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

DIPLOMATIC,
JUN 6 1900
BUREAU.

ASSISTANT SECRETARY
JUN 4 1900
DEPARTMENT OF STATE.

INDEX BUREAU
REC'D.
4 JUN 1900
DEPT. OF STATE

No. 426

LEGATION OF THE UNITED STATES,

Tokio, Japan, May 11, 1900.

Mr. Buck ,

to the Secretary of State.

Acker
June 18 C

Subject:

Status of Japanese Judiciary.

No. 426.

LEGATION OF THE UNITED STATES,

Tokio, Japan, May 11, 1900.

Honorable John Hay,

Secretary of State,

Washington, D.C.-

Sir:

Having stated in my despatch No. 417 of the 7th ultimo, transmitting the memorandum of sundry compalints of Messrs. Lindsley and Booth in behalf of the Executive Committee of the American Asiatic Society of Yokohama , as to registration of transfers of perpetual leases of property held by foreigners in the former foreign settlements, and in respect to taxes levied on buildings and other taxes, that "they already have "had and will continue to have some reason to complain of in- "efficient local officials", I have the honor to inform you that, in that statement, I had reference particularly to the inefficiency of the Courts, the judges and procurators of which, by reason of youth, inexperience and want of legal ability, fail to fill the measure of their responsibilities. By the proceedings and judgements of the local (prefectural) courts , in the trial of both civil and criminal cases under the revised codes, this inefficiency has been shown to a marked degree, in some cases amounting, it would seem, to a perversion of justice.

Administering the laws under the new codes, with no decisions to refer to for guidance, and the only authority to cite being the text of the codes as they may interpret them, the manifest inefficiency of these courts has given cause of complaint and will continue to do so unless men of ~~hihigher~~ judicial

judicial ability are to become judges, which can only be effected by larger salaries and by clothing judicial officers with more dignity and character in the estimation of the people by the selection of men of mature judgement and of higher rank in the legal profession . Judicial officers now are of inferior rank and dignity to the civil. Salaries of judges of the prefectural courts, having original jurisdiction of all classes of cases, range from Yen 600 to Yen 800.

There is reason to expect, however, an improvement in the standing and ability of the judges, when salaries shall be raised sufficiently to make judicial positions acceptable to lawyers of a higher order of talent and of greater age and of more experience in the practice of their profession, whose judgements would inspire more confidence in the courts. This improvement is looked for from influences working from within, as inferred from a report recently made by a Commission sent to the United States and Europe to investigate the judicial procedure and the character of the courts of Western countries, which report sharply criticises the want of ability and standing of the Japanese judicial officers and consequent inefficiency of their own courts. I herewith enclose a translation copy of the substance of that report taken from one of the vernacular papers.

I have the honor to be,

Sir,

Your obedient servant,

J. O. Buck

Enclosure:

Translation of Report of Judicial Commission from the Kokumin Shimbun of April 18, 20 and 22, 1900.

Enclosure with Mr. Burke's No. 426.

Report
on the
Judicial Institutions
in
America and Europe.

(Public Procurators Kawamura,
Nagamori and Nakanokōji)

II. Dignity and Credit of Judicial Officers.

One of the principal things that struck us while we were investigating the condition of the European countries, was the fact that the people there generally put so much confidence in the Courts of Justice. There the quarrels among people are thought to be finally decided; there rights are established and wrongs are redressed. The orders of the Courts are all but revered, and are obeyed without murmuring. Such a state of things of course

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may depend upon the manners and customs of the people; especially upon the orderliness and politeness prevalent among all classes of society. But there is another reason stronger than that; namely, the fact that the dignity and credit of the Courts are very high, so that the popular reverence for them is correspondingly deep, and the people believe that their life and property can be safely entrusted to them.

The reason why the Courts are so dignified and accredited by the people is that the judges and procurators are really so able as to be worthy of their reverence and trust. In such countries as Germany, France, England and America the judges are highly respected by the people and treated very generously by the States. In England, for example, the judges of the Higher Courts are granted large salaries, and to

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most of them are given titles of nobility and seats in the Houses of Lords. Though some newly appointed judges do not have the honour of a title of nobility, both the state and the people accord them the treatment of noblemen. The position is so elevated, and the salary is so large, that the post of a judge cannot be easily obtained. To be a judge is aspired to by the students of law as their highest honor, and those who desire to be judges are numerous. In case there is a vacancy among the judges to be filled, an able and competent candidate can be easily found among the lawyers who are considered by their fellow-lawyers to be superior both in learning, experience and reputation. As the judges are appointed in this way, it is no wonder that the dignity and credit of the judicial officers in Europe and America are so high.

In our country the legal provisions are rather superior to those of Europe; but the Courts of Justice have not the same dignity and credit; the lawyers both in and out of court are in constant strife with each other, so that the people make light of the Courts, and do not trust them implicitly. Consequently one appeal is followed by another involving useless expense; and worse than that, pettifogging is widely prevalent among the people. This may be attributed to several causes; but the principal one is the lack of dignity and credit of the Courts. Since the enforcement of the Law of the Organization of Judicial Tribunals, our Courts have been improved, and the authorities have been exerting themselves to improve the Courts. And yet they are not much respected. This is because the State treats them very poorly. It is a gross mistake to

compare

compare the judicial officers to the administrative officers only in point of the amount of business transacted, and rank the former behind the latter. Judicial officers generally must be of wide learning and experience; or else they cannot deliver fair and sound judgments. Therefore the quantity of business alone must not be the criterion for determining their standing as in the case of such petty official as copyists etc. To rate a judge by the amount of the business he transacts is proof that the proper value of judicial officers is not yet thoroughly appreciated in this country. No wonder therefore that the people do not respect them. — The salaries they receive in particular are not sufficient to maintain the honorable character of their position; some cannot even support themselves in an ordinary way of living. This is the reason why so ma-

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ny lawyers dislike to be judicial officers, and seek positions in the administrative sections or become attorneys. No matter how much the authorities may try to procure as many competent judicial officers as possible, the general tendency of to-day is toward the gradual decrease of such officers. Even the lawyers who are actually in the service of the judiciary are ever ready to resign their posts on account of the inferiority of their position and the smallness of their income. The worst part of it is that they not seldom make use of their present position as judicial officers to prepare themselves for the business that they intend to take up at some later time. The fact that the deficiency in judges and procurators cannot be filled by competent ones compels the Government to choose some attorneys who barely comply with their legal qu-

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qualifications. When able judges wish to resign their positions to become attorneys, how can it be expected that able men among the attorneys can be found who wish to become judges? The present condition of the appointment of judicial officers being thus, they are regarded by the people as pitiable petty officials. How then can the Courts presided over by them be honored and respected?

While in Europe and America the position of judicial officers is regarded to be the highest honor in life, in this country it is considered a poor and miserable position. There the judicial officers are selected from among the best of the lawyers, while here not very able lawyers are chosen. There the lawyers of good repute consider the office of judge to be a high and desirable one, while here able officers gradually drop out of the Government service.

How in this way can the dignity and credit of the Courts maintained?

While we were in England we were ashamed to read the correspondence from a foreigner in Japan concerning the present state of judicial circles:—

"Japan began in July to exercise "jurisdiction similar to that of other "Powers. But looking at the present condition "of the judicial officers, we find that "those who amount to anything gradual- "ly resign their posts, and enlist them- "selves among attorneys, while the Courts "of Justice are filled with good-for- "nothing judges and procurators. But "this is by no means without reason; "for the judges of highest rank re- "ceive the salary of only £200; the "lowest ones get no more than £60. "Is this not ridiculous? We cannot "imagine how such poor judges can "be expected to deliver proper judg- "ments!"

This criticism is of course too severe, perhaps because of the writer's imperfect knowledge of our judicial condition. But at all events it cannot be denied that this opinion discloses in part the actual condition of our country. To-day the judicial officers are not relied upon by the people of their own country; how much less by foreigners! No matter how perfect the laws may be, no matter how completed the organization of the law courts may be so far as the regulations are concerned, the thousand laws and regulations are useless, and the authority of the Courts ineffectual, so long as the above matters, especially the condition of judges, remain in their present condition. Though there may be various hindrances to present improvements by the State in judicial circles as well as in administrative ones, yet why should

not

resolute measures be taken, to extend the judicial sections, to elevate the position of judges, and procurators, and to admit the ablest men to the bench? When once able judicial officers are procured, the dignity of the Courts and the credit of their judgments will follow. We investigated the judicial conditions in various countries, and found many things worthy to be adopted by our country, in respect to the methods of transacting business, rapidity of execution and convinient processes. Hence we shall state some, day; We say here only that the difference between the dignity and credit of the law courts in Europe or America and in this country is very great.

11 degree of the Judicial Protection.

The next thing in which we found a striking difference between Europe and Japan is the fact that the ju-

dicial protection the people there receive is much greater than that in this country. Of course weighty cases of which the consequences are great must be regarded as very important. But as a matter of fact what generally has a greater and more direct relation to the people is not such weighty cases which take place very rarely, but the minor cases that take place daily arising out of differences among the people.. In Europe protection in such cases is very well provided for, and various preparations for such purposes are quite complete. As shown in the table attached elsewhere, hundreds of district courts are established in a country where judgments are given in the minor cases occurring daily, in a very brief, easy and convenient way, so that to enter the gates of the law courts is not considered at all disagreeable, and the cases are dis-

posed

posed of with ease and despatch, after a thorough statement of the circumstances on the part of the people, the competent judges giving their decisions in a kindly way, and not always clinging to the letter of the law. The great difference between the condition of affairs in this country and abroad is the fact that in Europe a clear distinction is made as to the importance of cases; that is to say, some important cases are treated in a very deliberate manner by a complex process, and the other minor cases are disposed of very expeditiously, for the most part by the district courts. In this way weighty cases are very well disposed of, notwithstanding that they require very scrupulous and minute processes and take much time. Now how is it in Japan? (1) Here the number of the district courts being very small,

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the people have to spend much money and time for minor cases, owing to the fact that the Courts are not conveniently near, and legal processes cannot therefore be quickly executed. This is especially the case with the personal non-contentious matters.

(2) There being thus no difference in the processes of law between major and minor cases, and the same rule applying to both, many weighty cases that should be carried up to higher courts rest undecided; and to decide them in haste the Courts often have to be satisfied with processes which comply with the legal provisions only in form. On such points our laws must be decidedly improved, so that the weighty cases only may have to be decided by complex and minute processes, while the minor cases may be very easily dealt with. Of course the improvement of laws belongs to

the

the legislative department and demands deliberate consideration; but the increase of district courts is of immediate importance, and should be done quickly, in order that the people may have ample and convenient legislative protection.

(Translated from the Kokumin Shimbun of April 18, 20 & 22d, 1900)

DIPLOMATIC,
JUN 5 1900

ASSISTANT SECRETARY
JUN 4 1900
DEPARTMENT OF STATE.

No. 427.

LEGATION OF THE UNITED STATES,

Tokyo, Japan, May 11, 1900.

INDEX BUREAU
REC'D.
4 JUN 1900
DEPT. OF STATE

Mr. Buck

to the Secretary of State.

Subject:

Crown Prince's marriage, etc.

No.427.

LEGATION OF THE UNITED STATES,

Tokyo, Japan, May 11, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to inform you that the Crown Prince of Japan was married to the Princess Sadako early yesterday morning.

In the afternoon the diplomatic corps were received at the palace by Their Majesties and by the Crown Prince and his bride, after which a supper was served. In paying my respects to the Emperor, I renewed verbally the congratulations of the President and yourself upon the auspicious event.

Herewith are enclosed a copy of my note to the Minister for Foreign Affairs, sent in compliance with your Instruction No.281, dated the 2nd ultimo, conveying the President's congratulations and your own upon the betrothal of the Prince, and also copies of two notes from Viscount Aoki, announcing, respectively, the delivery of the congratulatory message to His Imperial Highness, and its having been received with great satisfaction by the Emperor and Empress.

Hitherto an Imperial marriage has been, practically, the official appointment of a consort. Yesterday, for the first time, such an event was solemnized with great pomp and impressive ceremonies. This innovation, it is thought, will have a far reaching moral and social influence tending to raise in

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the popular estimation the sacredness of the congugal relation.

It is generally believed that this new departure is in line with a tendency to make it necessary that future emperors be legitimate sons born in wedlock,—a step which has not yet been taken, officially and definitely, owing to the difficulty of supplanting ancient tradition by Western ideas in such a fundamentally national concern.

In this connection I have the honor to enclose translation of the new Ordinance Relating to Marriages in the Imperial Family, a law upon the preparation of which Marquis Ito has been engaged. It, with the provisions of the Constitution, comprises the whole law upon the subject.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

Enclosures:

No.1. Mr.Buck to Count Aoki, April 27th.

No.2. Count Aoki to Mr.Buck, May 2nd.

No.3. Count Aoki to Mr.Buck, May 9th.

No.4. Translation of Law of Imperial Marriages, in duplicate, as above.

Enclosure No. 1 with Mr. Buck's No. 427 dated May 11, 1900.
(Copy)

No. 197. LEGATION OF THE UNITED STATES,

Tokyo, April 27, 1900.

His Excellency

Viscount Aoki Siuzo,

His Imperial Japanese Majesty's

Minister for Foreign Affairs.

Sir:

Acting upon instructions from my Government I have the honor and the pleasing duty to convey, through Your Excellency, to His Imperial Highness the Crown Prince of Japan the sincere congratulations of the President of the United States, in which the Secretary of State joins, upon the auspicious event of His Imperial Highness' betrothal to the Princess Sadako, and to express the best wishes of both for the future happiness of Their Imperial Highnesses.

I take this opportunity to add my own expressions to Your Excellency of felicitations upon the happy announcement and best wishes which I feel for the prosperity of the illustrious couple, availing myself of the occasion to renew to Your Excellency the assurances of my highest consideration.

(Signed) A. E. Buck.

Enclosure No. 3 with Mr. Buck's No. 427 of May 11th, 1900.
(Copy)

Translation, No. 14. Department of Foreign Affairs,
Tokio, the 2nd day, the 5th month,
of the 33rd year of Meiji.

His Excellency
A. E. Buck,
&c., &c., &c.,

Monsieur le Ministre,

I have the honor to acknowledge the receipt of Your Excellency's note of the 27th ultimo, in which Your Excellency purposes to convey under instructions of your Government to His Imperial Highness the Crown Prince the congratulations of the President of the United States and the Secretary of State, upon the betrothal of His Highness to Princess Sadako, adding your own expressions of felicitations.

I am happy to inform Your Excellency that prompt measures have been taken in order to convey the same to His Imperial Highness.

Expressing to you the sense of deep gratification on my part for so courteous manifestations of good will on the present occasion, I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

(Signed) Viscount Aoki Siuzo,
Minister for Foreign Affairs.

Enclosure No.3, with Mr. Buck's No.427, of May 11th, 1900.
(Copy)

Translation, No.13. Department of Foreign Affairs,
Tokio, the 9th day, the 5th month,
of the 33rd year of Meiji.

His Excellency,

A.E.Buck,

&c., &c., &c.

Monsieur le Ministre,

In reference to Your Excellency's note of the 27th ultimo, conveying the congratulations of the President and the Secretary of State of the United States on the Imperial Prince's marriage, the receipt of which I acknowledged the other day, I have now the honor to inform Your Excellency that these congratulations have been received by Their Majesties the Emperor and the Empress with profound satisfaction.

I avail etc.

(Signed) Viscount Aoki Siuzo,
Minister for Foreign Affairs.

Endosure No 4, with Mr Bucks No 427. May 16, 1900.

Ordinance Relating to Marriages in the Imperial Family.

Chapter I.—Imperial Nuptials.

Art. I.—The nuptials of the Emperor shall be celebrated after he has attained the age of seventeen.

Art. II.—In nominating the Empress the choice shall be confined to Princesses of the Imperial family or daughters of nobles specially designated, who have attained the age of fifteen.

Art. III.—When the matrimonial engagement is made, the fact shall be announced at the Imperial Ancestral Shrine (*Kworiden*) as well as at the shrines for the *Kami* (*Shinden*) placed in the Sanctuary in the Palace (*Kashikodokoro*), and imperial messengers carrying special offerings shall be despatched to the Jingu Temple, and the mausoleums of the emperor Jimmu and of the Emperor and Empress immediately predeceasing the reigning monarch.

Art. IV.—When the engagement has been concluded, the fact shall be announced by the Minister of the Imperial Household.

Art. V.—The date for the performance of the ceremony shall be announced by the Minister of the Imperial Household.

Art. VI.—On the day of the ceremony a solemn announcement of the fact shall be made at the Shrine in the Sanctuary.

Art. VII.—The ceremony shall be performed in front of the Sanctuary (*Kashikodokoro*) in accordance with the rites specially determined.

Art. VIII.—An Imperial Rescript as to the nomination of the empress shall be made public on the day on which the matrimonial celebration takes place.

Art. IX.—The Emperor, accompanied by the Empress, shall, at the close of the wedding ceremony, appear (for worship) at the *Kworiden* and the *Shinden*.

Art. X.—The Emperor and the Empress shall, at the close of the ceremony, wait on his grandfather, and grandmother, and the Empress Dowager.

Art. XI.—The Emperor and Empress shall, at the conclusion of the ceremony, hold a banquet in the Palace.

Art. XII.—The Emperor and the Empress shall, after the conclusion of the ceremony, proceed to the Jingu shrines and to the mausoleums of the emperor Jimmu and of the last Emperor and Empress for devotional purposes.

Art. XIII.—The President of the Imperial Archives shall, on the promulgation of an imperial Rescript connected with the nomination of the Empress enter the fact in the Records relating to the imperial genealogy.

All the records concerning the imperial marriage shall be preserved in the Archives Bureau.

Art. XIV.—No wedding ceremony shall be performed during a period of imperial mourning.

Chapter II.—Marriages of the Imperial Family.

Art. XV.—With regard to marriages in the Imperial family application shall be made for the sanction of the Emperor before an actual engagement is made.

Art. XVI.—The nuptials of the Prince Imperial, or the Imperial grandson, or the Princes of the Blood retaining the title of *Shinno* or *O*, shall be conducted in front of the Sanctuary in the Palace.

Art. XVII.—The Prince Imperial, or the grandson of the Emperor or Princes of the Blood holding the title of *Shinno* or *O* shall, at the close of the wedding ceremony, appear in state before the Emperor and the Empress, the Emperor's father and mother, and the Empress Dowager.

Art. XVIII.—In the case of the marriage of the Prince Imperial or the Emperor's grandson, the provisions of Articles III., IV., V., VI., IX., XI., and XII. shall apply.

Art. XIX.—In the case of the marriage of a *Shinno*, Articles V. and IX. apply, and in the case of an *O* Article IX. only shall be enforced.

Art. XX.—With regard to marriages relating to the Princes of the Blood, the fact shall be announced by the Minister of the Imperial Household on the day of the celebration.

Art. XXI.—The nuptials of any of the Princes or Princesses of the Blood shall in no case be celebrated before the age of seventeen in the case of the former and of fifteen in the case of the latter.

Art. XXII.—No wedding shall be concluded among Princes or Princesses of the Blood between relatives of direct lineage or between those belonging to the 3rd grade of connection.

Art. XXIII.—The nuptials of Princes or Princesses of the Blood shall not be performed during a period of imperial mourning or during a period of mourning for principal personages directly connected with them.

Art. XXIV.—Any form of marriage concluded by a Prince or Princess of the Blood in contravention of the statutes of the Imperial House shall be invalid.

Art. XXV.—Any divorce or separation on the part of a Prince or Princess of the Blood requires the imperial sanction, and, in default, such separation shall be declared invalid.

Art. XXVI.—Affairs connected with the marriage of Princes or Princesses of the Blood shall be put on record by the Board of the Imperial Archives.

Enclosure No 4, with Mr Bucks No 427. May 11th, 1900. Duplicate.

Ordinance Relating to Marriages in the Imperial Family.

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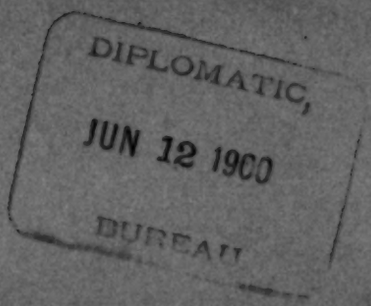
UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 4.

May 18, 1900.







Copy to Treasy
B. and C.
June 15
Ans
June 21

Mr. Buck

to the Secretary of State.

Subject:

Three ounce samples of tea:-can they go by post duty free to U.S.A.?

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. ~~~.

May 18, 1900.

To the Honorable John Hay,
Secretary of State,
Washington.

Sir:

I have the honor to enclose herewith a copy of a letter from the representative in Yokohama of the firm of Geo.H.Macy & Co. of New York, concerning the forwarding by mail of three ounce samples of tea to the United States, to be admitted free of duty, as claimed by their firm such samples would be.

As I have been unable to find any law or postal regulation touching that matter, I presume that some new ruling of the Treasury Department permits such samples of tea to pass through the mails, else so reliable a firm as Macy & Co. would not have given such information to its representative.

Hence, pending instructions to our Consul at Yokohama or to me to that effect, which I anticipate will soon be received, I have suggested to the Department of Communications, the foreign counsellor of which having called upon me for information and advice, that I saw no serious objection to the Postal Officials at Yokohama receiving and forwarding such samples by mail pending official information or instruction.

I have the honor to be,

Sir,

Your obedient servant,

Enclosure:
Copy of letter.

W. Buck

Enclosure with Mr.Buck's No. 4, dated May 18, 1900.
(Copy)

Geo.H.Macy & Co.,

China and Japan.

Yokohama 11th May, 1900.

The Hon. Alfred E. Buck,

Tokio.

Dear Sir:

On the 21st of April we received telegraphic Advice from Messrs. Carter Macy & Co., New York, to effect that "Three "ounce mail samples (of tea) would be admitted into the United "States free of duty." Previously the size for free mail samples was limited to one ounce. In accordance with these advices we sent in , some days ago, and also again yesterday, 3 ounce samples, but the Yokohama Post Office in each instance refused acceptance of them, saying that they were dutiable in the United States; they would, however, accept one ounce samples, but this quantity is almost utterly useless as a tea sample.

We then telegraphed Messrs. Carter Macy & Co., and suggested that they communicate with the authorities at Washington and request them to send instructions to the Postal Department at Tokio to receive 3 ounce samples for United States points.

We now have a telegram from New York confirming their previous telegram, and saying to bring the matter to your attention.

We shall be very pleased to know whether you can help us in any way in the matter. We are, dear Sir,

Yours very truly,
Geo. H. Macy & Co.
Per E.J.Cowan.

Enclosure with Mr. Buck's No. ~, dated May 18, 1900.

(Copy)

Geo. H. Macy & Co.,

China and Japan.

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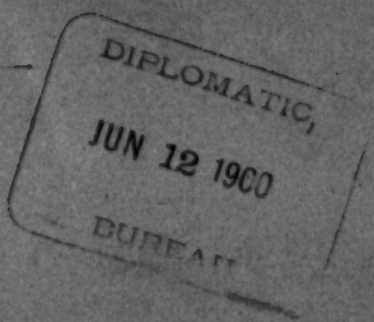
Yours very truly,
Geo. H. Macy & Co.
Per E.J. Cowan.

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 428.

May 18, 1900.





Take and
to Treas
June 14
C

Informed J.B.
Lippincott Co.
July 14 C.

Mr. Buck

to the Secretary of State.

Subject:

Excessive emigration of Japanese to the United States.

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 428. May 18, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to report as a matter of some importance that on yesterday during an interview which I had with the Japanese Minister for Foreign Affairs (the Viscount Aoki) upon various matters, he brought up the subject of emigration of Japanese to our Pacific Coast States. He referred to the public sentiment in opposition to the influx of Japanese as found expressed in the newspapers of our coast cities and stated that he had been taking steps to prevent the Japanese emigration companies or emigrants themselves avoiding any provisions of our immigration laws,—that the Imperial Government did not desire their people to flow into the United States in so large numbers. He expressed the desire that our Immigration Commissioners and Inspectors on the coast should be very exacting in the discharge of their duty in the examination of Japanese immigrants and that no one found not fully complying with our laws and regulations concerning immigrants should be allowed to land, but be sent back to this country.

The Minister seemed to be of the opinion, though not directly so stating, that the Emigration Companies here were not over scrupulous, and that the evasion of our immigration laws was possibly connived at. He also expressed the desire that I should make known to my Government the attitude assumed by the

the Imperial Government in respect to the emigration of Japanese to the United States, and that proper steps had been and would continue to be taken to restrict the number of emigrants to legitimate proportions and to prevent any evasions not only of United States laws and regulations but those of the Imperial Government as well.

I believe the Minister is entirely sincere in making these statements, as is evidenced by reports appearing in the vernacular and English newspapers of the Empire.

I expressed my gratification and thanks to the Minister for the information given me of the attitude of the Imperial Government taken as to the matter of emigration and as to what he was doing to restrict it.

I have the honor to be,

Sir,

Your obedient servant,



UNITED STATES LEGATION,
TOKIO, JAPAN.

DIPLOMATIC,
JAN 8 1901
BUREAU.

SECRETARY'S BUREAU
REC'D.
18 JUN 1900
DEPT. OF STATE

ASSISTANT SECRETARY
JUN 18 1900
DEPARTMENT OF STATE.

No. 429.

May 23, 1900.

Arrived July 12.
Refs. Dom. Solicitor.

Mr. Buck

to the Secretary of State.

Subject:

Informal way of securing enlarged consular functions.

UNITED STATES LEGATION,
TOKIO, JAPAN.

No.429. May 23, 1900.

To the Honorable John Hay,
Secretary of State,
Washington.

Sir:

Referring to my Dispatch No.232 of December 29th 1898, in which I made suggestions respecting the negotiation of a consular convention, or some agreement between the United States and Japan, whereby, among other things, the United States would be put upon equal footing with any other Power as to the functions to be exercised by our consuls in Japan respecting estates of deceased persons, I have the honor to represent that, in an interview with His Excellency Viscount Aoki, Minister for Foreign Affairs, he has expressed himself as entirely willing to accept a proposition to extend to the United States Consuls the power to exercise in Japan all the functions granted by Japan to consuls of Germany or any other Power, in reciprocation of like powers to be extended to Japanese consuls in the United States, and that this may be done by an agreement to be confirmed by ministerial notification, without the formality of a consular convention.

In consideration of the necessity of enlarged consular powers, especially some consular jurisdiction over estates of deceased citizens of the United States in this country, I regard it of great importance that our consuls should be empowered to exercise all such functions, equally at least, as do consuls of Germany or other Powers.

As the provisions of the consular convention of Germany with

with Japan appear to give more enlarged powers to consuls, and for that reason, perhaps, are more satisfactory than those of any other convention or treaty with Japan, though more complicated in detail, respecting administration of estates, than would seem to be necessary, I enclose a copy of that convention, translated from the Japanese text, as showing what authority would be exercised by such an agreement as suggested.

The Minister for Foreign Affairs has intimated that the enclosed copy of the Declaration in respect to authority of consuls exchanged between France and Brazil indicates in general the kind of an agreement which would be acceptable to his Government.

If such a reciprocal agreement as above indicated should be acceptable to the Department and, in consideration of all the circumstances, should be regarded advisable, there seems to be nothing in the way of its accomplishment so far as the Japanese Government is concerned.

I may add that it might be possible perhaps to accomplish the same result by the United States' simply granting, without specification, to consuls of Japan the power to exercise in the United States all such functions as are granted by the United States, by treaty or convention, to any other Power, in reciprocation of Japan's extending to consuls of the United States the power to exercise all such functions as are extended to consuls of any other Power, though I have no intimation of the acceptability of such a proposition by the Japanese Government.

I have the honor to be,
Sir,
Your obedient servant,

Enclosures;
1. Convention, copy.
2. Declaration, copy.

Hugh Gibson

Enclosure No 1 with Mr Buck's No 429, dated May 23, 1900.

Translation.

CONSULAR CONVENTION

Between GERMANY and JAPAN.

---ooo---

His Majesty, the Emperor of Japan, and His Majesty, the Emperor of Germany, King of Prussia, in the name of the German Empire, being desirous of establishing clearer provisions in relation to the reception by each of their respective Consular officers, and to the rights, privileges and immunities that they shall enjoy in the exercise of their functions, both in Japan and in Germany, have resolved to conclude a Consular Convention, and have named as their Plenipotentiaries, to wit:

His Majesty, the Emperor of Japan,

Viscount Aoki Siuzo, His Envoy Extraordinary and Minister Plenipotentiary to His Majesty, the Emperor of Germany, King of Prussia; and

His Majesty, the Emperor of Germany, King of Prussia,

Baron Adolf Freiherrn Marschall von Bieberstein,

His Minister of State for Foreign Affairs;

who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following Articles:-

ARTICLE I.

Each of the High Contracting Parties may locate Consuls General, Consuls, Vice Consuls and Consular Agents in all ports, cities , towns and places of the other Party, except in the localities where it may be deemed inconvenient to admit the residence of such officials. This reservation, however, shall not apply to one of the High Contracting Parties without also applying to every other Power.

The Consuls General, Consuls, Vice Consuls and Consular

Agents, Chancellors and Secretaries of the Consulates, and Officials and Attachès of Consulates of each of the two Countries shall enjoy reciprocally in the State of the other, all the rights, immunities and privileges that are or in the future may be, granted to officers of the same rank of the most favored nation.

ARTICLE II.

When Consuls General, Consuls, Vice Consuls and Consular Agents have presented their Commissions in the forms established by law in their respective countries, each of the two countries shall receive and recognize them and issue, free of charge, an exequatur, upon receipt of which the said Consular officers shall enjoy the rights and immunities which are reciprocally granted by each of the two countries to the other.

At the time of presenting their Commissions, the said Consular officers shall give notice of the limits of their Consular districts; and in case of any change thereafter information of the fact shall also be given.

The Government issuing the exequatur shall have the right to cancel the same on explaining the reasons for which it has deemed it expedient to do so.

ARTICLE III.

The Consular officers who are subjects of the States by which they have been appointed shall be , in civil cases, exempt from apprehension and detention; and even in criminal cases they shall be exempt from detention except in the case of offences which the local legislation qualifies as crimes (felonies). They shall be exempt from military billetings)

and contributions. The said Consular officers , if they are not engaged in commerce, industry or any branch of trade, or in any profitable business, besides their functions, shall be exempt from all capitation taxes, luxury taxes and all obligations and contributions that have the nature of direct or capitation tax. But the Custom dues, inland or local excises, and impositions upon the land that they may acquire or purchase in the country where they exercise their functions are not included in this exemption.

The Consular officers who are engaged in commercial business shall not be exempt from obligations of a commercial nature under the pretext of their Consular privileges.

In event of the arrest of a Consul or a Consular officer, the Government of the country which has made the arrest shall immediately inform the Legation of the country to which the said Consul or Consular officer belongs.

ARTICLE IV.

It shall be the duty of Consuls General, Consuls, the Chancellors and Secretaries employed by them, Vice Consuls and Consular Agents to appear before a Court of Justice of the country where they exercise their functions and give evidence in case such is deemed necessary by the said Court. In such case, however, the Court shall request their appearance officially and in writing.

In case the Officers above mentioned cannot appear before the Court owing to official business or sickness, the judicial officer, in civil cases only, shall visit their residences and obtain their testimony orally or apply for their testimony in writing in the forms established by the laws in their respective countries. In such case the officers above mentioned

shall comply with the request of the Court of Justice within the specified time; and to the testimony in writing they shall in addition to their signatures, affix their official seals and transmit the same.

ARTICLE V.

Consuls Generals, Consuls, Vice Consuls and Consular Agents may display at the outer door of their offices or residences their national arms and an inscription showing that the place is their office .

The Officials above mentioned may raise the national flag of their country on their office buildings; they may likewise raise the national flag of their country over the boat employed by them in the port for the exercise of their functions.

ARTICLE VI.

All records of Consulates shall be at all times inviolable. The Local Authorities shall not under any pretext examine or seize papers among the records.

In case a Consular Officer is engaged in any other business the papers relating to the Consulate shall be distinguished and kept separate from his private papers.

In case Consular Officers are subjects of the country by which they have been appointed and moreover are not engaged in commercial or industrial business, or in any other branch of trade, their offices and residences shall be at all times inviolable.

The Local Authorities of the country where they exercise their functions , except in the case of the examination of criminal offences, shall not, under any pretext, invade the said offices and residences. The papers kept in the said of-

fices and residences shall in no case be examined or seized by the said Authorities. The said offices and residences shall, however, under no circumstances, be used as places of asylum.

ARTICLE VII.

In case of the death, absence, or incapacity of Consuls General, Consuls, Vice Consuls, and Consular Agents, the Chancellors or Secretaries employed by them, whose official capacity will have previously been made known to the authorities of Germany and Japan, shall be entitled to take charge ad interim of the business of consular officers; and while thus acting they shall enjoy all the rights and immunities granted to the incumbents, in conformity with the conditions and reservations established for consular officers.

ARTICLE VIII.

Consuls General and Consuls may during temporary absence or for other reasons appoint acting consuls with the approbation of the Government of their country and the consent of the Government of the country where they exercise their functions. They may also appoint Consular Agents in the cities, ports, and places within their consular districts.

The said Acting Consuls or Consular Agents shall be furnished with commissions by the Consuls who have appointed them or by the Government of their own country. The said Acting Consuls and Consular Agents shall enjoy the privileges established for consular officers in this present Convention, subject to the reservations established for consular officers.

ARTICLE IX. In

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ARTICLE IX. In

In the event of any infraction of the Treaties and Conventions existing between the two countries, or of international law, Consuls General, Consuls, Vice Consuls, and Consular Agents shall have the right to apply for redress to the Courts of Justice or Administrative Offices within their consular districts belonging to the country where they exercise their functions, to request information of the said authorities, and to apply for the protection of the rights and interests of their countrymen. If the said authorities do not take the proper measures, the consular officers above mentioned, in the absence of the representative of their own country, may apply directly to the Government of the country where they exercise their functions.

ARTICLE X.

Consuls General, Consuls, Vice Consuls, and Consular Agents, or their Chancellors, shall have the following rights so far as permitted by the laws and ordinances of their respective countries:--1. To take at the offices of consuls or at the places where the consulates are located, or at the residence of the parties, or on board ships of their own country, the depositions of the captain, crews of vessels of their own country, of passengers and merchants on board of them, or of any of their countrymen.

2. To register and certify the unilateral legal acts and wills of subject of their own country, contracts between subjects of their own country, and the subjects of their own country and the country where they exercise their functions or foreigners residing in the country where they exercise their functions; also contracts concluded by subjects of the country where they exercise their functions, or by foreigners residing

siding in a third country, concerning land within the dominion of the country by which the said consular officers have been appointed, or concerning the legal acts that are to be disposed of within the said dominion.

3. To translate and certify all documents issued by the offices or officials of their own country.

The papers above mentioned, whether in the original, in copies, in extracts, or in translations, when authenticated by consular officers and sealed with their official seal, shall have in both countries the same validity as if registered and authenticated by the public notaries or by an authorized Government or public official or a judicial officer of either of the two countries. The stamp duties, however, and any other fees and impositions connected with the said papers shall be paid according to the laws of the country where they are to be put in execution.

ARTICLE XI.

The representatives, Consuls General, consuls, and vice consuls of each of the two countries shall have, so far as is permitted by the laws of the country, by which they have been appointed, the right to manage the marriages of their countrymen in accordance with the laws of their country.

This provision shall not apply to cases where one party to the marriage is a subject of the country where they exercise their functions.

When they have managed a marriage according to the foregoing provisions, the consular officers concerned shall at once communicate the fact to the local authorities.

ARTICLE XII.

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ARTICLE XII.

The Representatives , Consuls, General, Consuls and Vice Consuls shall have the right of certifying the births and deaths of their countrymen according to the laws and ordinances of the country by which they have been appointed.

The foregoing provisions shall not exempt the parties from the duty of reporting births and deaths to the competent authorities of the country where the Consular Officers exercise their functions according to the laws of the country.

ARTICLE XIII.

Consuls General, Consuls and Vice Consuls shall have the right of appointing the guardians and protectors of the subjects of their own respective countries, and of supervising according to the laws of their own country the execution of such guardianship and protection.

ARTICLE XIV.

In case of the death of subjects of one of the two countries within the dominion of the other, the following provisions shall be followed:

1.- In case of the death either of a subject of Japan in Germany or of a subject of Germany in Japan, at or near the place where a Consul General, Consul, Vice Consul or Consular Agent of their respective countries id located, the Local Authorities shall immediately communicate the fact to the said Consular Officer.

If the Consular Officer has learned of the death sooner than the Local Authorities, the said Consular Officer shall communicate the fact to the Local Authorities.

Consular Officers shall, by virtue of their official rights, or upon the application of the parties concerned, have the

the right of sealing all the effects, movable property and papers belonging to the deceased. Before sealing them, however, they shall inform the Local Authorities that have the right of attaching their joint seals in the presence of the Consular Officers.

The said joint seal shall not be opened without the co-operation of the local Government officials . If however the Local Officials have been requested by the Consular Officers to witness the opening of the joint seal, and have not arrived within forty eight hours from the time of the reciept of the request, the Consular Officers may alone open the seal without waiting for the presence of the Local Government Officials. If a Local Government Official is present, the Consular Officers, shall, after the breaking of the seal, make an inventory of the property of the deceased in the presence of the said Local Government Official, and the latter shall sign his name together with the Consular Officer to the certificate of inspection. The Local Authorities concerned shall have no right to demand any fee for their official co-operation.

2.- The local authorities concerned shall, according to the customsor the provisions of the laws of the country, make advertisement relating to the beginning of the disposal of the property of the deceased, and the calling of his heirs and creditors, and shall communicate the facts to the consular officer. The consular officer, however, shall not be denied , because of the advertisement made by the said authorities, the right of making a similar advertisement himself.

3.- In case the movable property of the deceased, if preserved in the original form, would involve considerable expense, the consular officers may, according to the laws and customs

customs of the country where they exercise their functions, dispose of it by public auction.

4.- The effects, valuables, receipts from debtors, and income registered in the inventory, and the proceeds from other movable property when sold shall be held in custody by the consular officer according to the laws of the country where he exercises his functions for a period of ten months counting from the date of the last advertisement of the local authorities concerning the property of the deceased, or, in case the local authorities have made no such advertisement, for twelve months counting from the date of death.

The consular officer shall have the right to deduct in advance from the property the expenses of medical attendance and burial, wages of employes, house rent, judicial expenses, consular fees, and any other similar expenses, and also when necessary allowances for the support of the family of the deceased.

5.- Consular officers, besides the provisions of the foregoing paragraph, shall have the right to take any steps deemed to be for the interest of the heirs in the preservation of the property, movable and immovable, of the deceased. Consular officers may manage the said property in person, or may designate another person as his representative and cause him to manage the same in the name of the consular officer. Consular officers shall have the right to demand the delivery of the valuables belonging to the deceased whether they be in the possession of public officers or of private persons.

6.- In case that within the period mentioned in the fourth paragraph of this article any dispute shall arise concerning the claims against the property of the deceased by subjects of

the country where the consular officer exercises his functions or by subjects or citizens of a third power, the jurisdiction shall belong solely to the courts of justice of the country where he exercises his functions, except in matters relating to the rights of succession or to bequests.

In case the property of a deceased is insufficient fully to satisfy his debts, the creditors may, so far as is allowed by the laws of the country where the consular officer exercises his functions, apply for a judgement of bankruptcy to the competent local authorities. After the sentence of bankruptcy has been pronounced the consular officers shall deliver all papers, effects, and valuables to the local authorities or to the administrator of bankruptcy proceedings, and at the time of such delivery it shall be the official duty of the consular officer to protect the interests of the subjects of his own country.

7.- In case no demand upon the property has been made at the close of the period mentioned in the fourth paragraph of this article, consular officers shall receive the property and, after having paid all expenses and payments to be borne by the property according to the rate of fees fixed by the country where they reside, shall deliver the same to the legitimate heirs after such settlement. The consular officers, however, shall not be bound to give account of the above proceedings to any person except the Government of their own country.

8.- With regard to any matters that may arise in either of the two countries in connexion with the disposal, management, and settlement of the property of the deceased subjects of the other, consuls general, consuls, vice consuls, and consular agents shall by law have the official right to represent

the

the heirs and shall by virtue of their office be considered as such representatives without the necessity of establishing their authority with powers of attorney.

Consular officers, therefore, may appear in person before the competent authorities of the country where they reside or cause others to appear as their representatives who are qualified according to the laws of the country to act as their representatives, and may thereby protect the interests of the heirs in relation to all matters connected with the property or answer all claims made against the heirs as the case may be.

If, however, when there is an executor, a claim is made against the property of a deceased, in case the executor or the heir is actually residing in the said place, or has an agent located there, it shall be the duty of the consular officer to communicate the contents of the claim to the said executor, heir, or agent in order that they may have opportunity of stating their objections to the claim.

It is however understood that consuls general, consuls, vice consuls, and consular agents shall not, by reason of their being considered as the representatives of the subjects of their respective countries, be made the defendants in judicial matters relating to the property.

9.- The right of succession and the rights of division of the property of the deceased shall be decided by the laws of the country of the deceased.

All manner of claims relating to the right of succession and the rights of distribution of the property of the deceased shall be decided by the laws of the country of the deceased, by the courts of justice or other competent authority of the said country

country.

10.- In case of the death of a subject of Germany in Japan, or of a subject of Japan in Germany, in localities where or near which no consular officer of their respevtive countries is residing the local authorities shall make up, according to the laws of their respective countries, an inventory of the property of the deceased and after having affixed their seal shall send it as soon as possible to the consular officer residing nearest to the place where the property is located an authorized copy of the said inventory together with the certificate of death and all papers certifying the nationality of the deceased.

The local authorities shall take all steps provided by the laws of their respective countries relating to the property of the deceased and shall deliver the said property to the above mentioned consular officer or his representative as soon as possible after the expiration of the period prescribed in the fourth paragraph of this article.

When the consular officer concerned or his representative has arrived at the place where the property is located, the local authorities having the matter in charge up to that time shall of course conform to the provisions mentioned in the foregoing paragraphs of this article.

11-:In case a subject of one of the two countries has died outside of the dominion of the other and has left property movable or immovable within the dominion of the other, the provisions of the present convention shall likewise apply in respect to such property.

12.- In case a mariner, passenger on ship board, or other traveller of one of the two countries has died either on land

or

or on board ship within the dominion of the other, the duty of preparing the inventory of property and of taking the necessary official measures for the preservation and settlement of the said property shall belong solely to the consuls general, consuls, vice consuls, or consular agents of the country of th deceased.

ARTICLE XV.

Consuls General, Vice Consuls, Consuls, and Consular Agents may go in person or dispatch representatives to the ships of their own country with which free communication is allowed , may interrogate the officers and marines on board, examine the ships' papers, demand the purpose and destination of the voyage , and a report of the occurrences during the same, receive the manifest, facilitate the process of entering and leaving port, and appear, as interpreters or attendants, before the Courts of Justice or administrative Government offices of the country where they exercise their functions in company with the said officers and marines.

At the ports where a Consul General, Consul, Vice Consul, or Consular Agent of one of the two countries is exercising his functions, no Government or public official of the other country shall, except for the purpose of the ordinary customs or sanitary inspection, board a merchant vessel and execute any examination, arrest, seizure, search, interrogation or any other compulsory measure unless they have previously communicated their intention to the said Consular officer in order that he may be present.

In case of causing an officer or sailor to give evidence or make deposition before a Court of Justice or the Local Authorities of the place in question, the fact shall be communi-

cated to the Consular officer in due time, in order that he may be able to be present. In the said communication shall be given the hour fixed for carrying the purpose into execution. If the said Consular officer or his representative does not appear, the Court of Justice or the local authorities may carry out the process immediately despite their absence.

ARTICLE XVI.

As the preservation of order on board of merchant vessels of their own country belongs chiefly to the Consuls General, Consuls, Vice Consuls and Consular Agents, the said Consular officers shall arbitrate all differences arising between captains, officers and crews, and especially those differences concerning wages and the fulfilment of their respective duties. Therefore, no Court of Justice or other Local authority shall under any pretext interfere in any complications that have arisen on board merchant vessels except when the said complications may disturb the peace and order of the port or on shore, or when persons outside of the officers and mariners of the vessel are concerned in the difference.

It shall however be the duty of the said local authorities , except in the case of subjects of their own country, to lend effective aid in searching for, apprehending or detaining members of the crews of vessels whom the said authorities have upon the request of the Consular officers, deemed it necessary to apprehend. And the said mariners shall be apprehended by the proper local authorities at the request of the Consular officers, made in writing with an authorized extract from the ship's register or the crew list enclosed, and shall be detained on behalf of the Consular officers while the said vessels are staying in the port, and shall be set free when the Consular

lar officers demand it, in writing.

The expenses of such apprehension and detention shall be borne by the Consular officers.

ARTICLE XVII.

Consuls General, Consuls, Vice Consuls and Consular Agents may apply for the arrest of officers, officials, sailors or members of the crews of men-of-war of merchant vessels of their own country who have committed the offence of desertion from the said men-of-war or merchant vessels, or who have been accused of desertion, in order that they may be sent back to the said men-of-war or merchant vessels or to their own country.

In applying for such arrest, Consular officers shall make request in writing to the authorities of the country where they exercise their functions, enclosing an authorized copy of the ships register and of the crew list of the man-of-war or other vessel, or other official documents that may make clear that the offender whose delivery is applied for is a member of the crew of the said man-of-war or ship. Upon the receipt of such request from Consular officers the deserters , only when either at the time of their joining the ship or of their arrival at the port they are not subjects of the country, of whom the request has been made, shall be delivered without the necessity of taking oath on the part of the said Consular officers.

The Local authorities shall likewise lend to the Consular officers the aid necessary in searching for and arresting the said deserters, shall put them in the prisons of the country, and shall detain them in the said prisons at the expense of the Consular officers until there may be an opportunity for sending them away.

If

If however such an opportunity should not present itself to the Consular officers within the space of six months from the day of the arrest, the deserters shall be set at liberty, nor shall they be again arrested for the same cause.

If the deserters have committed any crime or misdemeanor in the country where they were found out, they shall not be left to the disposal of consular officers until the decision of the Court of Justice competent to adjudicate the said cases has been pronounced and executed.

ARTICLE XVIII.

So far as there is no agreement to the contrary between the owners, consignors and insurers, all damages suffered at sea by the vessels of the two countries, whether they enter port voluntarily or are forced to enter port by stress of weather, shall be settled by the Consuls General, Consuls, Vice Consuls, and Consular Agents.

If, however, the consular officer has any personal interest in the case in question, or if he is concerned in the said vessel or its cargo, or if a subject of the country where he exercises his functions or a subject or citizen of a third power is interested in the said matter and the parties concerned cannot agree, the competent authorities of the country where the Consular Officer exercises his functions shall decide.

ARTICLE XVX.

The present Convention shall go into force on the same date as the Treaty of Commerce and Navigation concluded this day between the two countries, and it shall continue in force for the space of twelve years from the date of its being put into execution.

Each of the High Contracting Parties shall have the right of

of communicating to the other its intention to determine the effect of this Convention at any time after the expiration of eleven years from the day of the enforcement of this Convention. When twelve months have passed after the said communication this Convention shall be annulled.

ARTICLE XX.

The present Convention shall be ratified, and the ratifications thereof exchanged at Berlin at the same time as the exchange of the ratifications of the Treaty of Commerce and Navigation concluded this day between the two High Contracting Parties.

In witness whereof the Plenipotentiaries of the two countries have hereunto set their hands and seals.

Done at Berlin in duplicate the 4th April 1896.

(Signed) Viscount Shuzo Aoki.

" Baron von Marschall.

P

PROTOCOL.

The undersigned Plenipotentiaries have agreed upon the following stipulations at the same time with the Consular Convention signed and sealed this day:

1.- If on the day of the enforcement of the present Consular Convention concluded this day there should be, within the dominion of either of the two High Contracting Parties, persons who have no registered nationality and who are considered as under the protection of the other Party, the consular officers of the two countries shall apply to the said proteges for life the rights granted by the present Convention to subjects of their respective countries; and the list of such persons shall be communicated to each of the Governments of the two countries by the other.

2.- With regard to the extradition of offenders and the requests relating to criminal cases, separate stipulations shall be concluded between the two countries. Until the enforcement of the said stipulations, Germany shall enjoy in Japan the same rights and privileges as are now granted or in the future may be granted by Japan to other Powers relating to similar cases, provided that Germany shall guarantee at the time of making the above mentioned requests that she is prepared to grant reciprocal treatment to Japan with regard to similar cases.

The undersigned Plenipotentiaries agree that when the present Protocol has been presented to the respective Governments of the two High Contracting Parties, at the same time as the Consular Convention signed this day, and the said Convention has been ratified, the stipulations set forth in the present Protocol shall be considered as having been also sanctioned, without being specially ratified in due form.

They

They further agree that the provisions of the present Protocol shall lose their validity at the same time as the Convention mentioned above is annulled.

In faith whereof the Plenipotentiaries of the two countries have hereunto set their hands and seals.

Done at Berlin in duplicate the 4th April, 1896.

(Signed) Viscount Shuzo Aoki

Baron von Marschall.

Enclosure No 2 with Mr Bucks No 129, dated May 23, 1900.

(Translation)

Declaration exchanged at Rio de Janeiro on the 26th October, 1878, between France and Brazil, for the purpose of extending to their respective consuls the benefit of the Italo-Brazilian Consular Convention (Approved by Ministerial Notification).

The Government of the French Republic and the Government of H.M. the Emperor of Brazil, being convinced,—by reason of notice's having been given of the (termination) Consular Convention of December 10th, 1860, and of the interpretative Declaration of July 21st, 1866,—of the utility of determining by agreement the status of Consuls General, Consuls, Vice Consuls, and Consular Agents, as well as of Clerks residing in their respective territories, have agreed upon the following provisions:

The stipulations set down in the Consular Convention concluded on the 6th of August, 1876, between Brazil and Italy, shall apply to the Consuls of France in Brazil, and to the Consuls of Brazil in France so long as the said Convention shall remain in force.

It is understood that in the suppositions anticipated by the only paragraph of Article XVIII of the same Convention, the consular authority will have the right to be informed by the competent local authority as to all acts of recovery, of administration and settlement of estates, and to make such complaints as may seem to it well founded; upon demand addressed to the said local authority, provision will be made for the appointment of a guardian or a trustee.

In

In testimony whereof the undersigned, duly authorized for that purpose, have signed the present Declaration and have thereunto set their seals.

Done in duplicate at Rio de Janeiro, the 26th of October, 1878.

(Signed) Leon Noel.

" B.de la Villa-Bella.

UNITED STATES LEGATION,
TOKIO, JAPAN.

ASSISTANT SECRETARY
JUN 18 1900
DEPARTMENT OF STATE.

No. 430.

May 24, 1900.

INDEX BUREAU
REC'D.
18 JUN 1900
DEPT. OF STATE

DIPLOMATIC,
JUN 19 1900
BUREAU

Africa and
Portugal Dpts.
June 25 - C.

Mr. Buck

to the Secretary of State.

Subject:

Saluting incident at Nagasaki.

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 930. May 24, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to acknowledge the receipt of your confidential instruction No.284 of the 27th ultimo, enclosing a copy of a telegram from Rear Admiral J.C.Watson, U.S.N., concerning the failure of Captain Longenecker, Commanding the U. S.S.NEW ORLEANS, to salute the flag of the Russian Vice Admiral at Nagasaki on February 25th last, in which he communicated his action in the matter.

In respect to the Rear Admiral's statement that he appointed the Commander of the OREGON to call upon the Russian Minister to express regret for the misunderstanding between the Russian Vice Admiral and Captain Longenecker, my dispatch of the 23rd ultimo states the course taken by me on being informed of what the Commander of OREGON had been instructed to do, which instruction was not only to express deep regret, but also to express the purpose of making amends by the Commander of the OREGON's going to salute the Russian flag, on the arrival of a Russian warship in Japanese waters.

While I am confident that Rear Admiral Watson would not intentionally misstate a fact, I am surprised that he should have stated "The Russian Minister (was) informed through the "American Minister my action and Longenecker's mental condi- "tion". The fact is, though unimportant perhaps, that the Rear Admiral himself informed the Russian Minister of his (the

Rear

Rear Admiral's) action and of the mental condition of Captain Longenecker, as I was informed by the Russian Minister himself, who had visited the Rear Admiral on board the OREGON and with whom I had a conversation the day following his visit. From what the Russian Minister said to me I inferred that the Rear Admiral made, in my opinion, unnecessary apologies.

It may not be improper to say, in this connection, that the relations of the Russian Minister and myself have always been and are now of the most cordial nature, not having been disturbed in the least by our difference concerning the unpleasant incident at Nagasaki.

I have the honor to be,

Sir,

Your obedient servant,



UNITED STATES LEGATION,
TOKIO, JAPAN.

ASSISTANT SECRETARY
JUN 25 1900
DEPARTMENT OF STATE.

No. 431.

May 29, 1900.

INDEX BUREAU
REC'D.
25 JUN 1900
DEPT. OF STATE

DIPLOMATIC,
JUN 25 1900
BUREAU.

Rec'd June 28

Mr. Buck

to the Secretary of State.

Subject:

Requesting leave of absence to visit the U.S. in September.

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 431. May 29, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to request leave of absence to visit the United States, to take effect the latter part of September next, should the business of the legation and circumstances be such as to warrant my leaving my post about that time.

I have the honor to be,

Sir,

Your obedient servant,

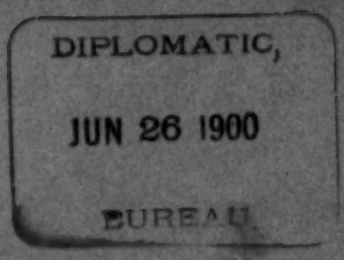
A. E. Buck

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 432. May 30, 1900.

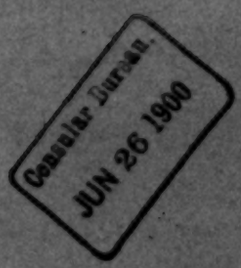


File



Mr. Buck

to the Secretary of State.



Subject:

Mr. Sharp's appointment as Vice and Deputy Consul at Kobe.

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 432. May 30, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to acknowledge the receipt of your Instruction No.288, of the 3rd instant, enclosing the certificate of appointment of Hunter Sharp, of North Carolina, as U.S.Vice and Deputy Consul at Osaka and Hiogo.

I have applied for exequatur for Mr. Sharp in that capacity and shall notify him of the result through the Consulate General.

I have the honor to be,

Sir,

Your obedient servant,

W E Buck

File

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 433. May 30, 1900.



Mr. Buck

to the Secretary of State.

Subject:

Instructions numbered 285 and 286 to be sent.

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 433. May 30, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to acknowledge the receipt of your Instruction No. 289, of the 4th instant, informing me that no instructions numbered 285 and 286 have been or will be sent to this legation. The fact has been noted on the records.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

UNITED STATES LEGATION,
TOKIO, JAPAN.

DIPLOMATIC,
JUN 29 1900
BUREAU.

No. 434. June 1, 1900.

INDEX BUREAU
REC'D.
25 JUN 1900
DEPT. OF STATE

Rec'd June 30

Mr. Buck

to the Secretary of State.

Subject:

Japanese Government's inquiry as to agreement of Powers in re securing "Open Door" in China.

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 434. June 1, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to enclose herewith a copy of a confidential note from H.I.J.M's. Minister for Foreign Affairs, dated the 29th ultimo.

In this note it will be observed that the point is raised that, in the replies of Germany, Russia, and France, in response to representations of the United States in respect of insuring to the commerce and industry of the United States and of all nations perfect equality of treatment within the limits of the Chinese Empire, especially within the so-called "spheres "of influence" claimed by certain Powers in China, the above named Powers give no more than assurances for the application of the most favored nation treatment to all nations, and cannot be construed to correspond with the formal assurances mentioned in my note of December 20th last. The Minister, therefore, requests that I further communicate to him the views of the United States upon this point.

In acknowledging the receipt of the Minister's note I expressed my desire for instructions before assuming to represent the views of my Government upon the point raised by him, further than already conveyed in my note of December 20th last, stating that, on receipt of such instructions, I would again communicate with him upon the point raised—(Copy of note of

of

of acknowledgment and also copy of my note of December 20th last embodying Instruction No.263 of November 13th last enclosed). Copy of my note to Viscount Aoki dated April 20th, in which I informed him that the Government of the United States then considered as final and definitive the assent to its declarations before given conditionally by the Japanese Government, since the condition, the acceptance of those declarations by the other Powers concerned, had been fulfilled— accompanied my Dispatch No.421, of April 23, 1900.

I have the honor to be,

Sir,

Your obedient servant,

Enclosures:

1. Viscount Aoki to Mr.Buck (confidential), May 29th.
2. Mr.Buck to Viscount Aoki, May 31st.
3. Mr.Buck to Viscount Aoki, December 20th.

No. 1

Enclosure A with Mr. Buck's No. 434 dated August 1, 1900.
(Copy)

No. 7. Translation.
CONFIDENTIAL.

Department of Foreign Affairs,
Tokio, the 29th day, the 5th month,
of the 33rd year of Meiji.

His Excellency
A. E. Buck,
Envoy Extraordinary, etc., etc., etc.

Monsieur le Ministre,

I have the honor to acknowledge the receipt of Your Excellency's note of the 20th ultimo enclosing copies of communications from Great Britain, Germany, France, Japan, and Italy in response to proposals made to those Powers by the United States Government with regard to securing to the U.States and all other nations perfect equality of treatment within the limits of the Chinese Empire for their trade and navigation.

Your excellency states therein that, all the Powers having accepted the proposals of the United States, the condition precedent for their acceptance by the Imperial Government has been fulfilled. The Imperial Government, however, understand that the reply of the German Government is to the effect that in its Chinese possessions all nations will be treated with absolute equality with regard to trade, navigation, and commerce; and that of the Russian Government embodies an assurance that, Dalny having already been declared a free port, if at some future time that free port should be separated by a customs limit from other portions of the territory leased by China to Russia, the customs duties would be levied, in the zone subject to the tariff, upon all foreign merchandise without

out distinction as to nationality, while the French Government reply that they are ready to apply, in the territories which are leased to them, equal treatment to the citizens and subjects of all nations especially in the matter of customs duties and navigation dues as well as transportation tariffs on railways.

The Imperial Government therefore consider that the replies of the three Governments are no more than assurances for the application of the most favored nation treatment to all nations and cannot be construed as to correspond with the formal assurances, mentioned in Your Excellency's note of the 20 December, 1899, which in substance mean non-interference with the existing treaties with China and non-discrimination in treatment between the subjects and citizens of the Powers interested and those of all other nations. I therefore venture to request Your Excellency to be so good as to further communicate to me the views of the United States Government on this point.

I avail etc.

(Signed) Viscount Aoki Siuzo,
Minister for Foreign Affairs.

Enclosure No. 2 with Mr. Buck's No. 434, dated June 1, 1900.
(Copy)

Legation of the United States,

Tokyo, May 31, 1900.

His Excellency

Viscount Aoki Siuzo,

His Imperial Japanese Majesty's

Minister for Foreign Affairs.

Sir:

I have the honor to acknowledge the receipt of your Excellency's confidential note of the 29th instant, in acknowledgment of the receipt of my note of date the 20th ultimo, enclosing to Your Excellency copies of communications to my Government from Great Britain and other Powers in reply to propositions of the United States made to them in respect to obtaining perfect equality of treatment of all the Powers within the limits of the Chinese Empire for their trade and commerce.

Your Excellency states that the Imperial Government understand that Germany, France, and Russia, in their respective communications, copies of which accompanied my note, give assurances for the application of the most favored nation treatment to all nations, and that they cannot be construed as to correspond with the formal assurances mentioned in my note of date December 20th, 1899, which in substance means non-interference with the existing treaties with China, and non-discrimination in treatment between the subjects and citizens of the Powers interested and those of other nations. Therefore Your Excellency expresses the desire that I further

communicate

communicate the views of the United States on this point.

Believing that the point raised is one that I should refer to my Government, for its consideration, before assuming to represent its views further than already expressed in the general statement made in my note of the 20th ultimo, I shall transmit a copy of Your Excellency's note to Washington for instruction, and, upon receipt of which, I shall again communicate with Your Excellency upon that point.

I avail etc.

(Signed) A.E.Buck.

Enclosure No. with Mr.Buck's No. of May , 1900.
(Copy)

No.176. Tokyo, December 20, 1899.

His Excellency

Viscount Aoki Siuzo,

etc., etc., etc.

Sir:

Referring to our recent conversation, in which I informed Your Excellency that I have received telegraphic information from my Government that, on the 13th ultimo, there had been mailed to me a communication for the information of Your Excellency's Government, containing the representations of the United States in respect to their commercial interests in China, as presented in notes to Russia, Germany, and Great Britain, which information Your Excellency had expressed a desire to obtain, I have the honor to inform Your Excellency that I have now received the communication desired, which I am instructed to submit to Your Excellency's Government and which reads as follows:

"This (the United States) Government,-animated with a "sincere desire to insure to the commerce of the United States "and of all other nations perfect equality of treatment within "the limits of the Chinese Empire for their trade and naviga-"tion, especially within the so-called 'spheres of influence "'or interest' claimed by certain European Powers in China, has "deemed the present an opportune moment to make representations "in this direction to Germany, Great Britain, and Russia.

"To attain the object it has in view and to remove pos-
sible

'sible causes of international irritation and reestablish con-
'fidence so essential to commerce, it has seemed to this Gov-
'ernment highly desirable that the various Powers claiming
''spheres of influence or interest' in China should give for-
'mal assurances that:

'1st. They will in no way interfere with any treaty port
'or any vested interest within any so-called 'sphere of inter-
''est' or leased territory they may have in China.

'2nd The Chinese treaty tariff of the time being shall
'apply to all merchandise landed or shipped to all such ports
'as are within such 'sphere of interest' (unless they be 'free
''ports'), no matter to what nationality it may belong, and
'that duties so leviable shall be collected by the Chinese
'Government.

'3rd They will levy no higher harbor dues on vessels of
'another nationality frequenting any port in such 'sphere'
'than shall be levied on vessels of their own nationality, and
'no higher railroad charges over lines built, controlled or
'operated within its 'sphere'on merchandise belonging to citi-
'zens or subjects of other nationalities transported through
'such 'sphere' than shall be levied on similar merchandise be-
'longing to their own nationals transported over equal dis-
'tances.

'The policy pursued by His Imperial German Majesty in de-
'claring Tsing Tao (Kiao Chao) a free port, and in aiding the
'Chinese Government in establishing there a custom house, and
'the Ukase of His Imperial Russian Majesty of August 11th last
'in erecting a free port at Dalny (Ta-lien-wan) are thought to
be

"be proof that these Powers are not disposed to view unfavor-
"ably the proposition to recognize that they contemplate no-
"thing which will interfere in any way with the enjoyment by
"the commerce of all nations of the rights and privileges
"guaranteed to them by existing treaties by China.

"Repeated assurances from the British Government of its
"fixed policy to maintain throughout China freedom of trade
"for the whole world, insure, it is believed, the ready as-
"sent of that Power to our proposals. It is no less confident-
"ly believed that the commercial interests of Japan would be
"greatly served by the above mentioned declarations which har-
"monize with the assurance conveyed to this Government at
"various times by His Imperial Japanese Majesty's Diplomatic
"Representative at this capital.

"You are therefore instructed to submit to His Imperial
"Japanese Majesty's Government the above considerations and
"to invite their early attention to them and to express the
"earnest hope of your Government that they will accept them
"and aid in securing their acceptance by the other interested
"Powers."

Hoping to receive a favorable response from Your Excel-
lency's Government, I avail etc.

(Signed) A.E.Buck.

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 435. June 1, 1900.



To D. of S.

Copy to P. M. G. June 29 C

Ans July 14 C

Mr. Buck

to the Secretary of State.

Subject:

Sending diplomatic pouches by lines other than those via San Francisco.

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 435. June 1, 1900.

To the Honorable John Hay,

Secretary of State,

Washington.

Sir:

I have the honor to acknowledge the receipt of your Instruction No.287 of the 2nd ultimo, enclosing copy of a letter from the Postmaster General to the effect that he sees no reason why diplomatic pouches should not be sent between the Department and this legation by the Tacoma and Seattle steamers as well as the San Francisco ones.

In my Dispatch No.416 of March 30th, to which the instruction now acknowledged is a reply, I mentioned the C.P.R. Company's ships (the Vancouver line), that route being the speediest. As those steamers also carry mails to the United States, it is possible perhaps that the Postmaster General intends to include them also.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 436.



June 9, 1900.

PRINTED IN ADVANCE SHEETS NO. 783

Mr. Buck

to the Secretary of State.

Japanese Sheets
to Japan
July 1 F

Subject:

Ownership of shares in Japanese railways by foreigners.

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 436.

June 9, 1900.

Honorable John Hay,

Secretary of State,

Washington, D.C.-

Sir:

I have the honor to state, as a matter of some interest to business men in the United States who may be inclined to interest themselves in railroad investments in Japan, that the Minister of Communications has sanctioned the ownership of shares in Japanese railway companies by foreigners.

This was done on the 5th ultimo, on inquiry from several railroad companies in the country, stating that as the law did not forbid, it was thought that foreigners had the right of ownership of their shares, and asking instructions in that respect.

One railroad company has applied for permission to change the articles of incorporation limiting the ownership of shares to Japanese subjects, which has been granted, and it is understood that other companies, as well as the one referred to, are to change their prohibitory articles in respect to ownership of shares by foreigners.

I have the honor to be,

Sir,

Your obedient servant,

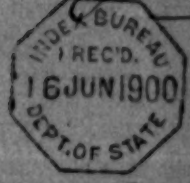


Filed under U.S. Legation to Japan

Lake Placid

Essex Co. New York.

June 14, 1900.



Sir:- Acht'd Japan No. June 18

My leave of absence granted by cable in February last and availed of on March 6th expires with today and I have the honor to request that the leave may be extended - without pay - for a further period of sixty days.

While in Washington

last month, I explained to you the circumstances which required a longer stay in this country:- the illness of my boy and legal business incident to the the condition of my wife's property.

I have the honor to be
Sir
Your obedient servant.
Joseph R. Harden
Secretary of Legation, Tokio.

Honorable John Hay
Secretary of State.
Washington.

File under U.S. Legation to Japan

TELEGRAM RECEIVED.

DEPARTMENT OF STATE

JUN 19 12 17 PM 1900

CHIEF CLERK'S OFFICE
RECEIVED

From Lake Placid NY
June 19, 1900
Received 12 15 P M.

Hon John Hay,
Secy of State,

Would like to be of use
to Department in present
Chinese crisis eight years
far East through North
China & Peking last Winter.
Understand situation. Answer

Joseph R. Herod
Legation Secretary Japan

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. #

June 19, 1900.

INDEX BUREAU
REC'D.
14 JUL 1900
DEPT. OF STATE

DIPLOMATIC,
JUL 10 190
BUREAU.

2D ASSISTANT SECRETARY,
Ack. by Number and File.
JUL 14 1900

Mr. Buck,

to the Secretary of State.

Subject:

Report of Director of Mint for 1899.

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. #

June 19, 1900.

Honorable John Hay,

Secretary of State,

Washington, D.C.-

Sir:

I have the honor to acknowledge the receipt of your instruction of May 24th, transmitting a letter from the Secretary of the Treasury, requesting that the Director of the Mint be advised of any inaccuracy that may appear in the latter's report on the "Monetary Systems of the Principal Countries of the World" for 1899.

The copy of the report mailed with the Director's letter has not yet been received, but upon receipt the desired information will be furnished at the earliest opportunity.

I have the honr to be,

Sir,

Your obedient servant,



UNITED STATES LEGATION,
TOKIO, JAPAN.

2D ASSISTANT SECRETARY,
File.
JUL 14 1900

No. 437

INDEX BUREAU
REC'D.
14 JUL 1900
DEPT. OF STATE

June 19, 1900.

Mr. Buck,

to the Secretary of State.

Subject:

Mr. Bellows' commission and exequatur.

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 437.

June 19, 1900.

Honorable John Hay,

Secretary of State,

Washington, D. C.-

Sir:

I have the honor to acknowledge the receipt of ypur instruction No. 290 of date the 21st May, enclosing the commission of E.C.Bellows, of Washington, as Consul General of the United States at Yokohama.

I have to-day applied to the Japanese Government for Mr. Bellows' exequatur, which I will transmit on receipt to him, together with his commission, at his post.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

D. C.

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 438 June 19, 1900.



Rec'd July 14.

Mr. Buck,

to the Secretary of State.

Subject:

Mr. Takahira appointed Minister of Japan to the United States.

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 438. June 19, 1900.

Honorable John Hay,

Secretary of State,

Washington, D.C.-

Sir:

I have the honor to report that Mr. Kogoro Takahira, who succeeded Mr. Komura as Vice Minister of Foreign Affairs on his,- Komura's - appointment as Minister to Washington, was appointed on the 16th instant Minister to Washington to succeed Mr. Komura at that post.

Mr. Takahira has been for many years in the diplomatic service, as is shown by the record of his services obtained from the Foreign Office herewith enclosed.

He is, all in all, I think the equal of Mr. Komura, though not speaking the English language quite so well and not so well acquainted with our people and country.

I regard Mr. Takahira's selection for the post a most excellent one. I know of no one who could be appointed who, in my opinion, has more ability and at the same time would be more acceptable and satisfactory to the Department of State or who would more ably represent the Imperial Government in Washington than he. I consider him as worthy of high consideration.

I have the honor to be,

Sir,

Your obedient servant,

Enclosure:

Resumé of Mr. Takahira's official career.

Mr. Takahira Kogoro.

1875 - Entered service of Foreign Office

1879 - Attaché to Legation at Washington

1881 - Third Secretary at same post

1883 - Secretary to Minister for Foreign Affairs

1885 - Secretary of Legation at Seoul

1887 - Consul at Shanghai

1890 - Chief of Bureau of Political Affairs, Foreign Office

1891 - Consul General at New York

1892 - Minister Resident at The Hague

1894 - Envoy Extraordinary and Minister Plenipotentiary
at Rome.

1895 - Transferred to Vienna

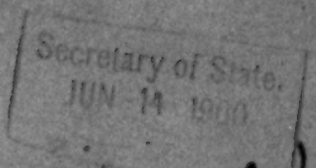
1899 - Vice Minister of Foreign Affairs.

1900 - Envoy Extraordinary etc, etc, to Washington.

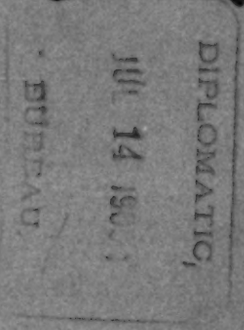
UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 439. June 19, 1900.





Jackson July 25 C



Mr. Buck,

to the Secretary of State.

Subject:

Confirming telegram of June 19, 1900.

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 439. June 14, 1900.

Honorable John Hay,

Secretary of State,

Washington, D.C.-

Sir:

I have the honor to confirm herewith my cipher telegram of to-day's date, as follows:-

" Five Japanese war-vessels are at Taku. 600 men landed.
" Two transports with 1300 men ,300 horses, sailed to-day.
" Japanese Government in anticipation of the necessity is
" prepared to send additional forces ".

In this connection I have the honor to state that there is much anxiety on the part of the Japanese Government respecting the outcome of the trouble in the Province of Chili, especially about Tientsin , Peking and the country on the line of the railroad between those two cities. The fear is expressed that rioting will continue and extend and that the Chinese Government will not suppress it, even if it really desires to do so, which, considering the conflict already taking place between the Chinese forces and the foreign forces at Taku, is regarded doubtful. Hence the Imperial Government, from what I can learn, expects immediate necessity to send a much larger force than it now has there and in transit for the purpose, jointly with other powers, to meet all emergencies as they may arise.

I have the honor to be,

Sir,

Your obedient servant,

Alvey A. Adee

DIPLOMATIC,

TELEGRAM RECEIVED IN CIPHER.

BUREAU.

Secretary of State. JUN 26 1900

From Tokio.

File

June 20, 1900.

Received 4 A. M.

Confd June 28

Secretary of State,

Washington.

Five Japanese war vessels are at Taku. Six hundred men landed. Two transports with 1500 men 500 horses sailed today. Japanese Government, in anticipation of the necessity, is prepared to send additional forces.

B U C K

ered by the Chief Clerk.

June 20, 9.25 A. M., 189 , M.

UNITED STATES LEGATION,
TOKIO, JAPAN.

DIPLOMATIC,
AUG 17 1900
BUREAU.

No. 440.

INDEX BUREAU
REC'D.
21 JUL 1900
DEPT. OF STATE

June 23, 1900.

Aug. 22 Aug. C.

Mr. Buck,

to the Secretary of State.

Subject:

Disposal of proceeds of sale of property of Geo. W. Lake at Nagasaki .

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 440 June 23, 1900.

Honorable John Hay,

Secretary of State,

Washington, D.C.-

Sir:

I have the honor to transmit herewith a transcript embracing copies of correspondence respecting the receipt by the United States Consul at Nagasaki of Yen 2,399.653 yen, purporting to be a balance of proceeds of sale of buildings and contents therein, on lot A Kozone-machi, Nagasaki, claimed to have been the property of Geo. W. Lake, now deceased.

The transcript consists of a despatch to me from U.S. Consul Harris, at Nagasaki, of date August 9th, 1899, with fourteen exhibits attached, comprising 13 communications of various dates, passed between the Governor of Nagasaki Ken and Consul Harris and his predecessor, and one from Fred B. Lake, one of the heirs of Geo. W. Lake, to Consul Harris. I also enclose a copy of my instruction No. 310 of August 17, 1899, wherein I stated that, "Pending instructions from the State De-"partment , or till, perchance, a settlement of the issue be-"tween the parties by agreement, or through the courts, you "cannot now do otherwise than hold the money". The Consul still has the money in his possession and expresses a desire to be relieved of its custody.

In consequence of a misunderstanding between Consul Harris and my self as to which, if any one, should report the matter, up to this time no report has been made by him to the Department, and that fact having come to my attention on the Consul requesting to be relieved of the responsibility of holding the money longer, I take occasion to transmit the record

for

for your information and instruction, if any, as to the disposition of the fund.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

Enclosure:

1- Transcript of correspondence regarding fund of 2,399.653 yen , balance of proceeds of sale of property of Geo. W. Lake

2- Copy of instruction of Mr. Buck to Consul Harris in re same.

Enclosure No. 1 with Mr. Buck's No. 440

Nagasaki, August 19, 1899.

H. E. , A. E. Buck,

etc., etc., etc.,

Tokio.-

Sir:

I have to report that on the 22nd of June last, I received from the Acting Governor of Nagasaki Ken a communication stating that no receipt had been received for a draft calling for Yen 2,399.653, Japanese currency, sent to my predecessor on the 27th of July, 1895, as the balance of the proceeds of the sale of the buildings and contents therein, owned by the the late George W. Lake, an American citizen, at the shipbuilding place, A Kozone - machi, Nagasaki, and requesting that I acknowledge the recipt of said draft. Copies of letter No. 105, enclosing draft to my predecessor, marked No. 1, and of the Acting Governor's letter to me, marked No. 2, enclosed .

In reply, I stated, in despatch No. 686 of June 23rd,- copy enclosed marked No. 3,- that an acknowledgement of the recepit of such draft was made to the Governor of Nagasaki Ken in despatch no. 882 of date July 30, 1895,- copy enclosed marked No. 4.

On the 28th of June last in despatch No. 108,- copy enclosed marked No. 5,- the Governor replied that the draft had by my predecessor been returned to the Ken-cho on August 9th, 1895, after having acknowledged receipt in this Consulate and further that the same draft was sent this Consulate again in letter No. 115 on the 10th of the same month, for which it was meant to ask my receipt.

August

August 9th, 1895, in despatch No. 890, copy enclosed marked No. 6, my predecessor, as is stated in the Governor's despatch (see enclosure No. 5), returned to the Ken-cho such draft, and informed the Governor that he could take no action in the matter until informed by Geo. W. Lake whether or not he (Lake) would accept the draft as conclusive in the matter.

In reply the Governor in despatch No. 115 of August 10, 1895, previously noted,- copy marked No: 7,- returned the draft to my predecessor and stated that he sent the amount in accordance with the instructions of the Tokio authorities as the money belonged to an American citizen he had nothing to do with the communications between Consul Abercrombie and Mr. Lake; the draft was therefore returned and Consul Abercrombie could take any action he saw fit.

My predecessor in despatch 886 of August 5, 1895, -copy enclosed marked No. 8- wrote Geo. W. Lake, Chemulpo, Korea, enclosing copy of a letter received from the Governor dated the 27th of July, 1895, -copy enclosed marked No. 1 - requesting Lake to notify him whether or not the amount Yen 2,399.653 should be receipted for , or should he refuse to receive the same or otherwise recognize the transaction. There is no record in this Consulate of an answer having been received to such letter from Mr. Lake or any person in his behalf. The envelope, however, containing the letter sent to Lake was opened in Chemulpo and returned to Consul Abercrombie without comment, as is shown by the records in this Consulate.

During the year 1898 Geo. W. Lake died in Chemulpo, Corea. No heirs came forward to claim his estate until a short time since when Fred B. Lake, son of George W. Lake, for himself,

his

his mother and sister, made claim to the estate of the said Geo. W. Lake. He, Fred B. Lake, showing me a power of attorney duly executed by his mother and sister, authorizing him to act for them as heirs of said Geo. W. Lake, in all matters pertaining to the settlement of the estate of said Geo. W. Lake.

Immediately, to wit, on the 3rd day of Julylast, in the presence of Epperson R. Fulkerson, Joseph K. Goodrich and John Makins, AMerican citizens, I tendered to said Fred B. Lake , for himself and as attorney for the heirs of Geo W. Lake, the amount of Yen 2, 399.653 in draft, received in aforesaid despatches Nos. 105, of July 27, 1895, and 115 of August 10th, 1895, from the Governor of Nagasaki Ken as settlement in full as specified in said despatch No. 105, for the sale of the property mentioned therein. On the same day I received from the said Fred B. Lake a letter,- copy enclosed marked No. 9-- declining to accept for himself and as attorney for his mother and sister as heirs of said Geo. W. Lake, the amount Yen 2,399.653, so tendered as settlement in full for proerty known as shipbuilding and Milling Lot, A. Kozone-machi, with property thereon.

In despatch No. 720 of the 10th ultimo to the Governor,- copy enclosed marked No. 10-- I referred to despatches Nos. 105 and 115 from the Ken-cho , enclosed herein as Nos. 1 and2, and stated that I had tendered to the heirs of said Geo. W. Lake the amount Yen 2,399.653 enclosed in said despatches and that said heirs had declined to accept the same as settlement in full for sale of property mentioned in the said de-

spatch No. 105 of July 27, 1895, and by reason of the action of said heirs I returned the said draft received in despatch No. 115 as aforesaid.

On the 27th July I received from the Governor despatch No. 154 of the 26th, - copy enclosed marked 11-- acknowledging receipt of the draft enclosed in my No. 720 and stating that as the money so received belonged to our citizen he returned it to me in Japanese currency by the hand of one of his Secretaries, the same person that delivered the despatch. I informed the Secretary that I certainly should decline to accept the money. He informed me that it was intended as an enclosure with the despatch from the Governor and as such I received it and such the despatch said it was.

In despatch No. 771 of the 28th ultimo,- copy enclosed marked No. 12--, I replied to despatch No. 154 of the Governor stating that I was not authorized by the heirs of Geo. W. Lake to act for them or in their behalf in the matter; that I returned the currency Yen 2,399.653 received and had to request that in future he would correspond with or transact business regarding the matter directly with the heirs of Geo. W. Lake, who were represented in Nagasaki by Fred B. Lake, as he alone, I was informed, is authorized to act in the matter.

On the 31st of July in despatch No No. 156,- copy enclosed marked No. 13 --, the Governor returned to me the currency Yen 2,399.653 and stated that as the money had been sent to and received by the former U.S.Consul, that there seemed to him to be no reason why he should deal directly with the authorized agent of Geo. W. Lake.

In reply I stated in despatch No. 785, of the 1st inst,- copy enclosed marked No. 14-- that I received the amount Yen 2,399.653 subject to instructions which I may hereafter receive from the Department of State of the United States, or from the United States Minister to Japan, and in receiving such sum of money I assumed no liability on the part of the Government of the United States, myself, or any other person or persons.

I ask for instructions as to what disposition I shall make of the money so received.

etc. etc. etc./

(Sgd) CHARLES B. HARRIS,

Consul

14 enclosures.

Encl. No. 1, with Mr. Harris' despatch.

Nagasaki Ken-cho, July 27, 1895.

Sir:

I have the honor to inform you that the buildings in Shipbuilding Place A, Kozone-machi, transferred to me some time ago, have been sold at this Ken-cho together with contents in the buildings, belonging to Mr. Geo. W. Lake, an American citizen, as shown in the enclosed memo.

I beg to send you herewith in conclusion of the affair, a draft of the 18th National Bank for the amount of Yen 2,399.-653, being the balance of the proceeds of the sale deducting the due land rent for the period from 1894 to July, 1895, and expenses incurred in connection with the sale, and request that you will kindly forward the amount to Mr. Geo. W. Lake.

I have etc etc

Sgd C. H OHOMORI,
Governor Nagasaki Ken

Dr. Herbert Blackburn,
U.S.Vice Consul, Nagasaki.

Encl. No. 2 with Mr. Harris' despatch.

Nagasaki Ken-cho, June 21, 1899.

Sir:

I have the honor to inform you that no receipt has been received up to date for the draft of the 18th National Bank for the amount of Yen Two thousand three hundred ninety-nine yen and sixty five sen three rin (¥ 2,399.653) sent to your predecessor on July 27, 1895, as the balance of the proceeds of the sale of buildings and contents therein owned by the late Geo. W. Lake, an American citizen, at the Shipbuilding Place A, Kozone-machi, Nagasaki.

I have the honor to request that you will be so kind as to acknowledge receipt for the aforesaid draft, as early as possible, as I am greatly inconvenienced without your receipt.

I have etc etc

Sgd S. TERADA,

Secretary, Acting for Governor of

Nagasaki Ken.

C.B.Harris, Esq.,

U.S.Consul, Nagasaki.

Encl. No. 3 with Mr. Harris' despatch.

U.S.Consulate, Nagasaki,June 23,1899.

S.Terada, Esq.,

Acting Governor of Nagasaki Ken.-

Sir:

I have the honor to acknowledge receipt of your despatch No. 103 of the 21st inst, stating that no receipt has been received up to date for a draft amounting to ¥ 2,399.653, sent to this Consulate in despatch No. 105 on the 27th of July,1895 from Nagasaki Ken-cho, and requesting that I receipt for the same.

In reply I have the honor to state that an acknowledgement of the receipt of such draft was made to the Governor of Nagasaki Ken in despatch No. 882 from this Consulate dated July 30, 1895.

I have etc etc

Sgd CHARLES B. HARRIS,

Consul

Encl . No. 4 with Mr. Harris' despatch.

U. S. Consulate, Nagasaki,

July 30, 1895.

C. Ohomori, Esq.,

Governor of Nagasaki Ken,

Sir:

I have the honor to acknowledge the receipt of your communication of the 27th inst with enclosure of a draft for Yen 2,399.653 , being the proceeds of the sale of the buildingd together with their contents belonging to Geo. W. Lake, an American citizen.

In reply thereto I have to inform you that the matter will be referred to Doctor W. H. Abercrombie, U.S.Consul, on his return to this port.

I am, Sir,

etc etc

Sgd H. BLACKBURN

Vice consul

Encl. No. 5, with Mr. Harris' despatch.

Nagasaki Ken-cho, June 28, 1899.

Sir:

I have the honor to acknowledge the receipt of your letter of the 23rd inst, replying that an acknowledgement of the receipt of a draft amounting to Yen 2,399.653 was made to the Governor of Nagasaki Ken in despatch No. 882 from your Consulate dated July 29, 1895.

I further have the honor to state that the aforesaid draft had been returned to this Ken-cho on August 9, 1895, after having acknowledged receipt in your Consulate, and the same draft was sent to your Consulate again in a letter No.115 on the 10th of the same month, for which it was meant to ask your acknowledgement of receipt, as no reply has been received for the same.

I hope that you will understand that it was said in the despatch of Mr. Terada, dated July 27, 1895, instead of August 10, 1895, by mistake.

I have etc etc

Sgd ICHIZO HATTORI,

Governor of Nagasaki Ken

Encl. No. 6 with Mr. Harris' despatch

U.S. Consulate, Nagasaki, Aug. 9, 1895

C. Ohomori, Esq.,

Governor etc etc

Sir:

In reply to your letter of July 27th informing me of the sale of Shipbuilding Place A Kozone-machi, together with contents in the buildings, belonging to Mr. Geo. W. Lake, am American citizem, I have the honor to inform you that I can take no action in the matter until informed by Geo. W. Lake whether or not he accepts the draft as conclusive in the matter. Mr. Lake has been communicated with at Chemulpo. His reply when received, will be immediately forwarded to you.

Enclosed please find the draft of ¥ 2,399.653 forwarded in your letter, which I herewith return.

I am etc etc

Sgd W. H. ABERCROMBIE,

U.S. Consul.

Encl. No. 7 with Mr. Harris' despatch.

Nagasaki Ken-cho, August 10, 1895.

Sir:

In reply to your letter dated the 9th inst, returning me the draft of yen 2,399.653 which I enclosed in my letter addressed you on the 27th ult., and informing me that you can take no action in the matter until informed by Mr. Geo. W.Lake whe ther or not to accept the draft .

I beg to atate that I sent the amount to you in accordance with the instructions I received from the Tokio Authorities, as the money belongs to the American citizen. As I am not in position to do anything with communications between you and Mr. Geo. W. Lake , I beg herewith to send you again the said draft for which you will please you will kindly take any action you may see fit.

I have etc etc

Sgd. C.H.OHOMORI,

Governor of Nagasaki Ken

Dr. W.H.Abercrombie,

U.S.Consul, Nagasaki

Encl. No. 8, with Mr. Harris' despatch

U.S. Consulate, Nagasaki,

August 5, 1895.

Geo. W. Lake, Esq.,

Chemulpo.

Sir:

I have the honor to enclose herewith copy of a letter received from the Governor of Nagasaki Ken. I would request me to notify me whether I shall receive the amount of ¥2,399.653 forwarded to me and give a receipt for the same, or refuse to receive the amount or otherwise recognize the transaction.

I am, etc etc

Sgd W. H. ABERCROMBIE,

U.S. Consul.

(Marginal note, in pencil) Note This letter returned after being opened in Chemulpo, Korea, filed in safe.

Encl. No. 9, with Mr. Harris' despatch.

Nagasaki, July 8, 1899.

Charles B. Harris, Esq.,

U.S. Consul, Nagasaki.

Dear Sir:

I beg to inform you that on behalf of the heirs of the estate of Geo. W. Lake, who are my mother, Lucy J. Lake, my sister Harriet I. Lake, whose power of Attorney I hold, I decline to accept 2,399.653 Japanese yen as settlement in full for property known as Shipbuilding and Milling Lot A, Kozone-machi, with property thereon, tendered through you from the Japanese Government to me as full payment for said property confiscated by the Japanese Government in 1894.

I remain, etc

Sgd FRED B. LAKE.

Encl. No. 10 with Mr. Harris' despatch.

U.S.Consulate, Nagasaki, July 10,1899.

Ichizo Hattori, Esq.,

Governor Nagasaki ken.-

Sir:

Referring to despatch No. 105 of the 27th July,1895, and No. 115 of the 10th August of the same year, from the Governor of Nagasaki Ken, and to despatch No. 103 of the 21st June from the Acting Governor, and to your despatch No. 108 of the 28th ultimo, I have the honor to state that I have tendered the amount of ¥ 2,399.653 enclosed by draft in said despatch No. 115, of the 10th August, 1895, to Fred B. Lake, and to Fred B. Lake as attorney for Lucy J. Lake and Harriet I. Lake, they being the heirs -at-law of Geo. W. Lake, an American citizen, deceased, the person named as payee in the said despatch No. 105 of the 27th of July, 1895. The said amount, y 2,399.653 the said Fred B. Lake declined for himself and for Lucy J. Lake and Harriet I. Lake, to receive, as heirs of said Geo. W. Lake, as settlement in full of the sale of said property known as Shipbuilding and Milling Lot A, Kozone-machi, Nagasaki, mentioned in said despatch No. 105 of July 27, 1895.

By reason of the action of said heirs of Geo. W. Lake, deceased, declining to receive such amount of money as settlement in full for the sale of said property, I have the honor to return to you, herewith enclosed, the draft for Yen 2,399.-653 , enclosure in despatch No. 115 of August 10, 1895, aforesaid.

I have etc etc

Sgd Charles B. Harris,U.S.Consul

One enclosure as stated.

Encl. No. 11 with Mr. Harris' despatch.

Ken-cho, Nagasaki, July 26, 1899.

Charles B. Harris, Esq.,

U.S.Consul, Nagasaki.-

Sir:

I have to acknowledge your despatch No. 720 of the 10th inst.

I have to inform you that Mr. Lake refused tooreceive the balance of the money (¥ 2,399.653) in August 1895, and though the said cheque was returned to me I have to forward same according to instructions from the Imperial Government. As I have stated in my previous despatch the money belongs to your citizen. I have to forward the said money to you again, enclosing said sum.

I beg you will kindly forward the recipt of same.

Sgd I HATTORI,

Governor Nagasaki Ken

Encl No. 12, with Mr. Harris' despatch.

U.S.Consulate, Nagasaki, July 28, 1899.

I. Hattori , Esq.,

Governor etc.-

Sir:

I have the honor to acknowledge the receipt of your despatch No. 154 of the 26th inst, and with it the sum of Yen 2,399.653, which you request me to receive, stating that the same belongs to our citizen, meaning the heirs of Geo. W.Lake, deceased.

In reply will state that as I am not authorized by the heirs of Geo. W. Lake , deceased, to receive the amount, or to act for them or in their behalf in this matter I return herewith the currency 2,399.653, Japanese yen, received in your despatch above noted, and have to request that you will in the future correspond or transact business regarding this matter directly with the heirs of the said Geo. W. Lake, who are represented in Nagasaki by Fred B. Lake. He alone, I am informed, is authorized to act in the matter.

I have etc etc

Sgd C. B. HARRIS,

U.S.Consul

Encl. No. 13, with Mr. Harris' despatch.

Nagasaki Ken cho, July 31, 1899.

C.B.Harris, Esq.

etc etc etc

Sir:

I have the honor to acknowledge the receipt of your despatch of 28th in reference to Yen 2,399.653 belomging to the late Geo. W. Lake.

You state that you are not authorized by the representative of Geo. W. Lake to receive the money. The money having been sent to and received by the former U.S.Consul, there seems to be no reason why we should deal directly with the authorized agents of Geo. W. Lake.

I therefore return the money and request you to fully arrange the matter.

I have etc etc

Sgd I. Hattori,

Governor etc

Encl. No. 14, with Mr. Harris despatch

U. S. Consulate, Nagasaki, August 1, 1899.

I. Hattori, Esq.,

Governor etc etc.-

Sir:

I have the honor to acknowledge the receipt of your despatch No. 156 of the 31st ultimo referring to this Consulate the sum of Yen 2,399.653 which amount I enclosed to you in despatch No. 771 of the 28th July for reasons stated therein.

In reply will state that I received the amount which you enclosed subject to instructions which I may hereafter receive in regard to the matter from the Department of State of the United States or from the United States Minister in Tokio, and in receiving such sum of money I assume no liability on account of the Government of the United States, myself, or for any other person or persons.

I have etc etc

Sgd C. B. HARRIS

U.S.Consul

Enclosure No. 2 with Mr. Buck's No. 440

No. 310.

United States Legation, Tokio,

August 17, 1899.

C. B. Harris, Esq.,

U. S. Consul, Nagasaki.-

Sir:

I have acknowledge the receipt of your despatch No. 818 of the 9th instant, with enclosures,- records of correspondene in respect to a fund of Yen 2,399.653, purported to be the "balance of the proceeds of sale of buildings and contents "therein, owned by the late George W. Lake, an American citi- "zen".

From your statement it appears your predecessor refused to accept the payment of the above stated sum, tendered by the Governor of Nagasaki Ken, unless acceptable to Mr. Lake, who did not accept, whereupon the draft for the amount was returned to the Governor. Considerable correspondence it seems passed between your self and the Governor, from which it appears that the tender of the amount several times by draft was made. The drafts were returned to the Governor unaccepted by Lake in his lifetime, and by his heirs since his death, who declined to receive the amount in payment. Tender of the amount was finally made to you as United States Consul, in currency, which you declined to receive and returned to the Governor, stating that you were not authorized by the heirs of Lake to act for them, requesting that the Governor, in that matter, conduct the business directly with the heirs of Lake. The amount in currency was immediately sent to you again by the Governor

stating in his note enclosing it that "as the money had been "sent to and received by the former U.S.Consul, there seemed "to him to be no reason why he should deal with the authorized "agent of Geo. W. Lake", and it appeard that you finally received the money, subject to instructions from the State Department, and that you "assumed no liability on account of "the United States, yourself, or any other person or persons", and you ask my instructions.

From your despatch and accompanying correspondence it seems that in receiving the money you have only done so as a stake-holder and that neither party at issue can have just cause of complaint of your action, whatever the issue may be.

Pending instructions from the State Department, of till perchance a settlement between the parties by agreement or through the courts, you cannot now do otherwise than hold the money.

I am etc etc

TELEGRAM RECEIVED IN CIPHER.

Secretary of State.
JUN 28 1900

To Navy Conference June 25-

File

From Tokio.

June 24, 1900.

Receive 10.32 P. M.

Secretary of State.
JUN 27 1900

Secretary of State,

Washington.

Japanese Government, in view of the very critical situation of the combined forces at Taku and Tientsin, desiring to conform its course to that of other powers specially interested, requests to be informed what measures they will immediately take to meet [situation] Official information is requested as above of interested powers through their representatives here.

BUCK

ered by the Chief Clerk

June 25, 9.30 A.M., 189 , M.

UNITED STATES LEGATION,
TOKIO, JAPAN.

DIPLOMATIC,
File
JUL 21 1900
BUREAU.

No. 441

June 26, 1900.

INDEX BUREAU
REC'D.
2 1JUL1900
DEPT. OF STATE

Mr. Buck,

to the Secretary of State.

Subject.

Confirming telegram from the Department, dated June22,1900

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 441 June 26, 1900.

Honorable John Hay,

Secretary of State,

Washington, D.C.-

Sir:

I have the honor to append hereto the reading of the telegraphic instruction from the Department, dated the 22nd, instant, relating to the representations received By the Department from the Viceroys of Nanking and of Hunan, through the Chinese Minister in Washington.

As directed in the said despatch, the purport of the message was communicated to the Minister of Foreign Affairs of the Japanese Government immediately upon receipt.

I have the honor to be,

Sir,

Your obedient servant,

W. W. Rock

Telegram from Secretary Hay to Mr. Buck.

Department of State,

Washington, June 22, 1900.

American Minister, Tokio.

The Chinese Minister has communicated telegrams to me from the Viceroys of Nanking and of Hunan, who say that the five(?)provinces under their control are at peace and that they are both determined and perfectly able to preserve order and to prevent any outrages upon foreigners within their jurisdiction. He begs that the United States for their own part will telegraph to the American Admiral not to send any military or naval forces into the Yangtse-kiang so long as no distyrbance of order takes place in those provinces and that we will consult with other Powers and request them to pursue the same course of action. I have replied that the Government of the United States has no disposition to send either military or naval forces into any Chinese provinces where the Government shows its ability and its determination to preserve order and to protect foreigners in their lives and their rights and my belief that these intentions are shared by the other Powers. You will please communicate to the Minister for Foreign Affairs the purport of the above conversation.

HAY.

UNITED STATES LEGATION,
TOKIO, JAPAN.
JUL 23 1900
BUREAU.

2D ASSISTANT SECRETARY,
Note & file.
JUL 23 1900

No. 442.

INDEX BUREAU
REC'D.
21 JUL 1900
DEPT. OF STATE

June 26, 1900.

Mr. Buck,

to the Secretary of State.

Subject:

Translation of cipher telegram of date June 23, 1900.

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 442 June 26, 1900.

Honorable John Hay,

Secretary of State,

Washington, D.C.-

Sir:

I have the honor to append hereto translation of my cipher telegram to the Department of date June 23rd.

This telegram was substantially a copy of a memorandum note received by me on that date from the Minister of Foreign Affairs of the Japanese Government, which note was occasioned by a special conference of the Representatives here of the Powers having military and naval forces at Taku with the Minister for Foreign Affairs, called by the latter to learn, so far as possible, what would be the immediate course taken respecting sending additional forces into China, and to obtain the opinions of the Representatives upon the necessities of the situation in general.

No one of the said Representatives, of course, could speak advisedly for his Government. Hence the memorandum note referred to from the Minister for Foreign Affairs, and my telegram .

I have the honor to be,

Sir,

Your obedient servant,



Telegram, Mr. Buck to the Department of State.

United States Legation, Tokio, Japan,
June 23, 1900.

Secstate , Washington.

The Japanese Government, in view of the very critical situation of the combined forces at Taku and Tientsin, desiring to conform its course to that of other Powers specially interested, requests to be informed what measures they will immediately take to meet the situation. Official information is requested as above of interested Powers through their representatives here.

BUCK.

UNITED STATES LEGATION,
TOKIO, JAPAN.
DIPLOMATIC BUREAU.
JUL 23 1900

2D ASSISTANT SECRETARY,
To War & Navy Depts
for information.
JUL 23 1900

INDEX BUREAU
REC'D.
21 JUL 1900
DEPT. OF STATE

No. 443. June 29, 1900.

Mr. Buck ,

to the Secretary of State.

Confirming telegram to Department of date June 28, 1900

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 443.

June 29, 1900.

Honorable John Hay,

Secretary of State,

Washington, D.C.

Sir:

I have the honor to confirm my cipher telegram of yesterday's date, reading as follows:-

" Japanese Government is ready and about to send immediate-
" ly twelve thousand additional men to Taku".

The information embodied in the above telegram was given me yesterday by the Minister for Foreign Affairs in an interview, during the course of which His Excellency stated that in view of the gravity of the situation his Government had decided to mobilize 15,000 men,-including those that had already been despatched as reported in my No. 439 of June 19th-, who would be sent immediately to Taku.

In this connection I have further to report that the Japanese Government, by Imperial Ordinance of date the 26th instant , have provided for an emergency fund amounting to Yen 50,000,000.-- to meet the expenses occasioned by the operations in China.

I have the honor to be,

Sir,

Your obedient servant,

A. E. Buck

DIPLOMATIC
JUL 23 1900
BUREAU.

UNITED STATES LEGATION,
TOKIO, JAPAN.

2D. ASSISTANT SECRETARY,
Ack. cordially approving. Has been sent to Secy of Navy for any additional views or arguments he may desire to make.
JUL 23 1900
So communicate to Secy of Navy saying Mr. Buck's course has been approved.

Did 00 July 27 C

INDEX BUREAU
REC'D.
21 JUL 1900
DEPT. OF STATE

No. 444.

June 29, 1900.

Mr. Buck,

to the Secretary of State.

Subject:

Income tax on salaries of officers and men at Naval Hospital, Yokohama.

UNITED STATES LEGATION,
TOKIO, JAPAN.

No. 444.

June 29, 1900.

Honorable John Hay,

Secretary of State,

Washington, D.C.-

Sir:

I have the honor to enclose herewith a copy of a communication to me from Dr. F. Anderson, Surgeon in Charge of the U. S. Naval Hospital at Yokohama, date of the 17th instant, with copies of correspondence between him and the Chief of the Yokohama Revenue Administration Bureau, concerning making returns and paying income tax by the officers and enlisted men of the U. S. Navy and Marine Corps, stationed at the Hospital. I also enclose a copy of a note addressed by me to the Japanese Minister for Foreign Affairs upon that subject.

In conversation with the Minister in respect to the officers and enlisted men at the Hospital being subject to the income tax, he expressed the desire in determining the matter to take into consideration also the claims of a like nature made by the Surgeons in Charge of the German and British hospitals which would cause some delay.

While I , as yet, have no response to my note, I am of opinion that the Chief of the Revenue officials of Yokohama will not further press the matter of obtaining return of the incomes in question pending the decision of the Government, as I presume instructions have been given to that effect.

I have the honor to be, Sir,

Your obedient servant,

W. W. Rockhill

Two enclosures.

Enclosure No. 1 with Mr. Buck's No. 444

Copy U. S. NAVAL HOSPITAL,

Yokohama, Japan, June 17, 1900.

H. E., The Minister of the United States,

Tokio, Japan.-

Sir:

I have the honor to submit for your consideration the question of the obligation of officers and enlisted men of the United States Navy and Marine Corps, stationed at this Hospital, to make returns of income and pay taxes thereon in accordance with the provisions of the Income Tax Law of the Japanese Empire, now in operation.

In April last some blank forms for making return of income were left at this hospital together with printed explanatory remarks. According to these "Remarks" it seemed to me evident that no person connected with the hospital came within the provisions of this law and therefore none of these blank forms were filled out. Some weeks later some officers and men on duty at this hospital, and in the active service of our Government, received postal cards requesting them to fill out at once these blank forms and make return of income.

As the officer in charge of the hospital, I accordingly addressed the letter, a copy of which is hereto appended, and marked A, to the Director of the Yokohama Revenue Administration Bureau. In response to this letter I was called upon by Mr. Tojo , the Chief of the Yokohama Taxation Office, who stated that the translation of the word active as used in the "Remarks" was not a correct translation of the Japanese word, and that only officers and men in "actual" service would be

exempt from taxation. I therefore requested that an official letter be sent me, stating clearly the meaning of the law. On June 15th the letter in Japanese, a translation of which I have obtained and appended hereto marked "B", was sent to me. A copy of my reply is appended and marked "C". According to this translation, officers and men, during war time only and at the seat of war, are exempt from taxation. This interpretation practically excludes all foreign officers and men from exemption.

In my opinion officers and enlisted men on duty at this hospital are not legally subject to an income tax and I do not feel justified in complying with the provisions of the law myself, nor authorizing those under my charge to do so, in the absence of any definite instructions from my Government. The officers and men on duty here are not here voluntarily, but in accordance with orders from the Navy Department which they are compelled to obey.

In conclusion permit me to call Your Excellency's attention to the text of Art. 5, Subsection 1 of the Income Tax Law of Japan, and to Article I, paragrapg 4 of the Treaty now in force between the United States and Japan. I have the honor to enclose copies of the extracts above referred to.

Very respectfully,

Sgd F. ANDERSON,

Surgeon, U. S. Navy,

In Charge of Hospital.

"A".

Yokohama, Japan, May 23, 1900.

Sir:-

Some time ago blank forms for return of income were left at this Hospital and to-day postal cards were received addressed to officers and men stationed here requesting that these blank forms be filled out and returned.

All the persons so addressed are officers or enlisted men in the Naval Service of the United States on active duty. They are stationed here by orders of the U. S. Government and are liable to be ordered away at any time.

According to paragraph 6, Article 5 of "Remarks" accompanying these blank forms, being naval men in active service, their incomes are not taxable, nor are they required to make return of salary.

Very respectfully,

Sgd F. ANDERSON, Surgeon etc.,

S. Saito, Esq.,
Director Revenue Administration Bureau,
Yokohama.

"B".

June 15, 1900.

F. Anderson, Surgeon U.S.N.

etc etc etc.

Sir:

I am in receipt of your communication under date May 23 relative to a notice of the amount of income. Salaries to be received by military men (Army and Navy) while in active service as provided in Item I, Art. 5 of the Income Tax Law, means the salaries to be received by the Army and Navy men at the seat of war or at the places to be considered as the seats of war, and while the rendering of "Jungun" into the English "Active Service", in the remarks appended to the paper of notice lately distributed by the Yokohama Tax Office, may not be a proper rendering, still the spirit of the Revenue Law is that no tax will be levied upon the salaries to be receivable in the cases as indicated above. Military men (Army and Naval) although under commission, unless they come under the cases above stated, are under obligation to pay taxes, as officials in civil service, as provided in Arts. 1 and 2 of the Revenue Law.

I have etc etc

Sgd S. SAITO

Chief etc etc

"C"

Yokohama, June 17, 1900.

S. Saito, Esq.,

etc etc etc

Sir:

I am in receipt of your communication of the 15th inst relative to the construction which your Bureau places upon the wording of that portion of the Income Tax Law of Japan which exempts the salaries of persons in the Army or Navy while on Active Service.

I understand you now to hold that this exemption applies to such persons only when they are engaged in active hostilities. My understanding of the provisions of this Law has been that the exemption applied to all in active service under a commission or under the orders of the military Departments of any Government.

In view of the provisions of the Treaty between the United States and Japan the question is one o f such importance that I have considered it necessary to refer it to the United States Minister at Tokio and the Navy Department of the United States at Washington, and I would ask you to be good enough to suspend all action in the matter until I receive the instructions of my Government.

Very respectfully

EXTRACT FROM TRANSLATION OF INCOME TAX LAW OF JAPAN,
as published by the Yokohama Tax Bureau.

Art. V. Income tax is not levied on the following incomes:

(I) Salaries of persons in the Army or Navy while on active service.

EXTRACT FROM TREATY BETWEEN THE UNITED STATES AND JAPAN,
Signed 22nd November, 1894.

Art. I, Par. 4.-- They (the subjects or citizens of each of the two High Contracting Parties) shall not be compelled under any pretext whatever, to pay any charges or taxes other or higher than those that are, or may be, paid by native subjects or citizens, or subjects or citizens of the most favored nation.

Enclosure No. 2 with Mr. Buck's No. 444

Copy.

No. 211. June 25, 1900.

H.E. Viscount Aoki Siuzo,

etc., etc., etc.,

Sir:

Referring to our conversation on the 21st insatnt respect ing the question whether an income tax should be levied upon the salaries of the surgeons and enlisted men of the U. S.Navy now assigned to duty at the U.S.Marine Hospital at Yokohama, in order that this question raised by the Surgeon in charge of the Hospital may be presented with more particularity, I have the honor to respectfully submit for the consideration of Your Excellency the grounds upon which the claim of exemption from income tax is based.

It is claimed that the Surgeon-in-charge, Assistant Surgeon and enlisted men of the navy, temporarily on duby at the Hospital in Yokohama are on active service there by assignment of the U.S.Navy Department, subject to transfer to some other Hospital, or to some naval vessel at any time by the order of the Department, as much so as if they were on duty on a ship of war, or in the discharge of their official duties at some U.S.Naval Hospital in some foreign country at the seat of war; that they are, strictly speaking, not domiciled in Japan and have acquired no residence here; that the Hospital is the property of the United States, erected on land held under perpetual lease, granted by the Imperial Government to the United

States

States for hospital purposes and that the surgeons and enlisted men now on duty there are to be regarded as free from any legal requirement to pay an income tax, as though they were on board a U. S. ship of war in the harbor; that they have no business nor occupation in Japan other than their official duties at the Hospital and derive no income because of their being stationed for the time and on duty in Japan,--their only income being their salaries from their Government, and that it is believed that under the circumstances the Income Tax Law of the Imperial Government was not intended to apply in such case.

Article V, paragraph 1 of the income tax law, under which levy is sought to be made upon the officers and men at the Hospital, provides that the income tax is not to be levied on "Salaries of persons in the Army or Navy while on active "service." While it would seem that this provision was intended to apply to persons in the Army and Navy of the Imperial Government only, as it could not be contemplated that officers and enlisted men of the Army or Navy of any other Power could , while in service in the discharge of any official duties whatever, have their residence and be domiciled in legal sense within the territory of the Empire,--yet should it be contended that the law does so apply, since the surgeon and men are really "on active service", exemption is claimed.

For these reasons the Surgeon-in-charge does not feel justified in complying with the request made by the tax officials to make return of income for himself or authorizing the officers

officers and men under his charge to do so in the absence of instructions from his Government and he has consequently informed the Chief of the Yokohama Revenue Administration Bureau that the question is one of such importance that he has to request that no further steps be taken to enforce the levy of the tax, pending instructions for which he has applied.

Whatever may be the conclusion of the Imperial Government respecting the question raised I venture to respectfully suggest that pending such conclusion and as also pending instructions from my Government, the levy of the income tax upon the Surgeons and enlisted men at the U.S.Marine Hospital be stayed, if consistent.

I avail etc etc

Sgd A. E. BUCK.

TELEGRAM RECEIVED IN CIPHER.

From Tokio,

June 29, 1900.

Received 11.45 P. M.

Secretary of State,

Washington.

Japanese Government is ready and about to send immediately twelve thousand additional men at Taku.

BUCK

d by the Chief Clerk

June 30, 9.14 A. M., *189* , *M.*

TELEGRAM RECEIVED IN CIPHER.

From Tokio, June 30, 1900
Rec'd July 1, 1900.
7:48 A.M.

Secretary of State,

Washington.

I have no information of any combination ominous scheme for the future government of China. Japanese Minister for Foreign Affairs claims he has none. He expresses strong desire of Japan for an understanding and cooperation with the United States and Great Britain in respect to the future of China, because their interests and purposes presumably are the same. I have reason to believe that the Japanese Government is suspicious of the purposes of Russia though cooperating now.

Buck.

Deciphered and typewritten by Michael, Chief Clerk, 12:45, P.M., July 1, 1900.

ed by _____

_____, 189 , M.